United Nations A/AC.109/2007/8

General Assembly

Distr.: General
26 March 2007

Original: English

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Anguilla

Working paper prepared by the Secretariat

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I. General

1. Anguilla [1] is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory lies 240 kilometres east of Puerto Rico, 113 kilometres north-west of Saint Kitts and Nevis and 8 kilometres north of St. Maarten/St. Martin. The Territory has a relatively flat topography, a total area of 96 square kilometres and includes several offshore islets. The main island has a maximum length of 26 kilometres and a maximum width of 5 kilometres. The capital of Anguilla is The Valley, where 43 per cent of the population resides.

2. An estimate of July 2006 puts Anguilla's population at 13,477, with a population growth rate of 1.57 per cent.[2] There are several thousand Anguillians living abroad, in particular in the United Kingdom, the United States of America and the United States Virgin Islands. Of the total population, 99 per cent speaks English. Spanish or Chinese are the most common mother tongues among non-English speakers.

II. Constitutional, legal and political issues

3. Originally inhabited by the Arawaks, Anguilla was first colonized by British settlers in 1650. For administrative purposes, it was associated with Saint Kitts and Nevis from 1871 to 1980. Following the dissolution of the Federation of the West Indies in 1962, Saint Kitts-Nevis-Anguilla became a State in association with the United Kingdom. Following a number of demonstrations demanding secession from Saint Kitts and Nevis, in the referendum held in July 1967, the vote was 1,813 to 5 in favour of secession. Further demonstrations and protracted negotiations were followed by the intervention of British security forces in 1969 and the Anguilla Act of 1971, under which the United Kingdom reassumed direct responsibility for the administration of the Territory, appointed a Commissioner and provided for the establishment of an Island Council. A separate Constitution came into effect in February 1976. In 1980, at Anguilla's request, arrangements were made by the Government of the United Kingdom for the Territory to be withdrawn formally from the Associated State of Saint Kitts-Nevis-Anguilla and become a separate dependency of the United Kingdom.

4. In 1981 further constitutional talks between the Governments of Anguilla and the United Kingdom were held. Under a new Constitution, while not providing for a full measure of internal self-government, a substantial degree of additional local responsibility would be granted to the Government of Anguilla. The Anguilla House of Assembly approved the new Constitution and the United Kingdom enabled the Anguilla (Constitution) Order to come into force on 1 April 1982.[3]

5. According to the Anguilla Constitution Order, which was amended in 1990, the Government of Anguilla consists of a Governor, an Executive Council and a

[1] The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

[2] *CIA World Factbook*, 8 February 2007.

[3] See also A/AC.109/799.

House of Assembly. The Governor, who is appointed by the United Kingdom, is responsible for defence, external affairs, internal security, including the police, international financial services, public service appointments and the application to public servants of their terms and conditions of service. On all other matters, the Governor is required to consult with and act on the advice of the Executive Council. The Executive Council consists of the Chief Minister, not more than three other ministers and two ex officio members (the Attorney General and the Deputy Governor). The Governor acts as Chairman. The House of Assembly is elected for five-year terms. It comprises a Speaker, seven members elected from single-member constituencies, the same two ex officio members as in the Executive Council and two members nominated by the Governor, one of whom is appointed upon the advice of the Chief Minister and the other after consultation with the Chief Minister and the Leader of the Opposition, as appropriate.

6. Various amendments were made to the Constitution in subsequent years, the latest adopted in 1990.

7. A new Governor, Andrew N. George, replaced outgoing Governor Alan Huckle in July 2006.[4] Previously, he worked in the Human Resources Directorate of the Foreign and Commonwealth Office.[5]

8. The law of Anguilla is the common law of the United Kingdom, together with all legislation inherited from the former Associated State of Saint Kitts-Nevis-Anguilla up to August 1971 and local legislation enacted since that date. The law is administered by the Eastern Caribbean Supreme Court, which comprises a Court of Appeal and a High Court of Justice, courts of summary jurisdiction and magistrate courts, with final recourse to the United Kingdom Privy Council.[6]

9. In October 2006 the Governor appointed a Barbadian as new Attorney General, a post many in Anguilla would have wanted to see occupied by a local person. Earlier that year the vacancy of Deputy Governor had for the first time been filled by an Anguillian.[7] Besides being the Public Prosecutor, the Attorney General acts as the chief legal adviser to the territorial Government. The combination of these conceivably conflicting functions is under review.[8]

10. General elections, held on 21 February 2005, saw the return of the United Front Government, an alliance of the Anguilla Democratic Party and the Anguilla National Alliance, under Osbourne Fleming, with four seats. Shortly afterwards, an opposition member crossed the floor, giving the Government five out of seven elected members in the House of Assembly. The Anguilla Strategic Alliance and the Anguilla United Movement each won a seat. Given the even number of seats won by each opposition party, it was not possible for the Governor to appoint a Leader of the Opposition.[9] The next elections are due in 2010.

11. As previously reported, the basis of the relationship between the United Kingdom Government and its Non-Self-Governing Territories is set out in the White Paper, entitled "Partnership for Progress and Prosperity: Britain and the Overseas

[4] Information transmitted by the administering Power, 15 January 2007.
[5] www.anguillian.com, 2 December 2005.
[6] www.offshore.com.ai/anguilla/government.html.
[7] www.caribbeannetnews.com, 9 October 2006.
[8] www.anguillian.com, 6, 23 June; 17 October 2006.
[9] www.anguillian.com.

Territories", published in March 1999. The British Overseas Territories Act 2002, which came into force on 21 May 2002, abolished the terms "colony" and "dependent territory" and granted the right of British citizenship to "British Overseas Territory citizens".[10]

12. Taking into account the efforts of a Committee for Constitutional and Electoral Reform in 2001, which did not finish its work and made no recommendations for reform,[10] on 21 January 2006, the Governor established a Constitutional and Electoral Reform Commission to reinvigorate the constitutional review process. For its six-month working period, the Commission was chaired by retired Eastern Caribbean Supreme Court Justice Don Mitchell. Draft constitutional proposals were published, reviewed in public meetings, and formed the basis of the recommendations that the Commission presented in the report to the Governor in August 2006. The report also presented a set of recommendations to improve internal self-governance.[11]

13. According to its report, the Commission found that, generally, Anguillians were satisfied with the 1982 Constitution, which provides them with a large degree of autonomy, external (United Kingdom) forces for defence and overseas representation by the Foreign and Commonwealth Office. Furthermore, the report states that there is one small group in the Territory that favours independence.[12]

14. In January 2007 the former Chairman of the Commission criticized the decision by the territorial Government to amend the Constitution with regard to the renaming of "Police Force" to "Police Service" and establishing a "Police Service Commission" without public consultations while the Territory's constitutional review was under way.[13]

III. Budget

15. In Anguilla, the fiscal year corresponds to the calendar year.[14] In December 2006, the Minister of Finance presented the 2007 Budget to the House of Assembly under the theme "Building on our Successes". The Minister highlighted the areas where targets were achieved or surpassed within the fiscal plan. He further indicated that development must be sustainable in the long run and the areas where the Government planned to build on the successes achieved to date. For 2006, the Ministry of Finance registered a projected recurrent surplus of more than East Caribbean (EC) $30 million.[15]

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[10] See A/AC.109/2006/4.

[11] http://gov.ai/constitutional_reform2006.htm, "Anguilla Constitutional and Electoral Reform Commission Report", 25 August 2006.

[12] Ibid.

[13] www.anguillaguide.com, 2 February 2007; Government's Response To Police Bill Amendment, 23 January 2007, http://www.gov.ai/publicrelations/story.php?id=132.

[14] Caribbean Development Bank, Economics Department "Social and Economic Indicators 2005", April 2006.

[15] One East Caribbean dollar = 0.37736 United States dollar (Monday, 26 February 2007) with a fixed rate since 1976 of US$ = EC$ 2.7 (*CIA World Factbook*, 8 February 2007; http://www.oanda.com/convert/classic). Information transmitted by the administering Power, 9 January 2007; Budget Address 2007; http://www.gov.ai/2007Budget.htm, presented on 12 December 2006, p. 26.

16. The recurrent expenditure for 2007 is projected at EC$ 157.1 million and capital expenditure at EC$ 33.2 million, to be financed by recurrent revenue of EC$ 174.5 million and borrowing of up to EC$ 20 million.[16]

17. In 2002, the territorial Government began a programme putting aside money into reserves to achieve 90 days of recurrent expenditure by 2008. This was part of a joint agreement with the administering Power on borrowing guidelines. Under the programme, once the targets are maintained or exceeded, the prior approval of the United Kingdom Government will not be required for loans with a positive financial or economic rate of return.[17]

18. Despite the cessation of bilateral aid from the United Kingdom Department for International Development (DFID) in 2005, Anguilla can benefit from the DFID regional aid programme for the United Kingdom Overseas Territories in the Caribbean. According to the administering Power, Anguilla can also access funds of the European Development Fund, the United Nations Development Programme (UNDP), the Good Government Fund and Economic Diversification Programme Budget of the Foreign and Commonwealth Office, and the Foreign and Commonwealth Office/Department for International Development Overseas Territories Environmental Programme.[17]

19. On its part, the Caribbean Development Bank announced in 2006 a loan of US$ 5 million (EC$ 13.5 million) for the Anguilla Development Board, which finances agriculture, industry and commerce projects, medium and small enterprise projects, mortgage financing projects and student loans.[18]

IV. Economic conditions

A. General

20. In recent years, economic activity in Anguilla has steadily increased. According to the administering Power, gross domestic product (GDP) has grown at an average annual rate of 6.1 per cent during the five-year period 2001 to 2005. GDP for 2005 was EC$ 245.6 million, an increase of 10.9 per cent from EC$ 221.3 million in 2004. Per capita GDP for 2005 was estimated at EC$ 18,005 (approximately US$ 6,669).[17]

21. Tourism, including hotels and restaurants; banking and insurance; construction; and government services were the major contributors to economic activity, accounting for 31.9 per cent, 18.5 per cent, 14.3 per cent and 12.7 per cent, respectively, of GDP in 2005. GDP is projected to grow by 12 per cent in 2006, driven primarily by activity in the tourism and construction sectors as the US$ 500 million and US$ 250 million resort and residences projects approved in 2002 and 2004, respectively, continue their construction and opening of different parts of the projects.[17]

22. At the same time, inflation has risen over the past few years. Prices have increased at an average annual rate of 5.1 per cent during the period from 2003 to

[16] Information transmitted by the administering Power, 9 January 2007.

[17] Idem.

[18] www.anguillaguide.com, 27 October 2006.

2005. That compares with an average annual rate of growth of 3.1 per cent during the previous three-year period from 2000 to 2002. According to the administering Power, the territorial Government is aware of the need to monitor inflation and manage the economy so that inflation does not get out of control.[17] The inflation rate for consumer prices in 2006 was estimated to be 5.3 per cent.[2]

B. Tourism

23. Luxury tourism continues to dominate the Anguillian economy. According to the Territory's Ministry of Economic Development, Investment, Commerce and Tourism, Anguilla will continue its commitment to "low volume, high value" tourism.[19] Three major private sector projects are under construction.

24. In 2006 the number of visitor arrivals decreased from 143,186 in 2005 by 5 per cent to 136,693, of which 76,538 came from the United States, 11,349 from Caribbean countries, 6,165 from the United Kingdom, 5,997 from Canada, and approximately 16,000 from other European countries.[20] In 2006, the vast majority of visitors arrived by sea (109,212) with the remaining 27,481 coming by air.[20]

25. The marketing and promotional activities of the Anguilla Tourist Board and the Anguilla Hotel and Tourism Association are reported to have a positive impact on the industry. Anguilla has benefited from increased market awareness and media attention as an up-market tourism and honeymoon destination. There has also been a good reaction to the "Charming Escapes" programme, highlighting quality mid-market and budget accommodations on the island. Anguilla is developing an active real estate sector aligned to the new resort and residential tourism projects.[17]

C. Financial services

26. Anguilla entered the field of financial services relatively late and has a small international finance sector, specializing in trust and company registration. There are no income, estate or capital gains taxes.

27. In 2006, a total of 1,320 companies, classified as international business, overseas, new, limited liability and foreign companies, were registered in Anguilla. That constitutes a palpable decrease in comparison to the 2,170 companies registered in 2005.[21]

28. Anguilla's Financial Services Commission, established in 2004, is an independent regulatory body that focuses on licensing, supervision of licensees, monitoring of financial services in general, reviewing existing financial services legislation and making recommendations for new legislation, as well as maintaining contact with appropriate foreign and international regulatory authorities.

29. The Territory has in place effective anti-money-laundering legislation, including the Proceeds of Criminal Conduct Act, 2000; the Money Laundering Reporting Authority Act, 2000; the Anti-Money Laundering Regulations; the Guidance Notes on the Prevention of Money Laundering; and the Criminal Justice

[19] www.caribbeannetnews, 25 April 2006.

[20] www.gov.ai/statistics/Tourism_Oct_06.htm.

[21] www.gov.ai.com, Statistics.

Act. The Government of Anguilla reviewed and amended its Proceeds of Crime legislation and other areas of anti-money-laundering regulation to ensure compliance with the requirements of the international regulatory bodies, in particular the revised 40 recommendations of the Financial Action Task Force on Money Laundering, as well as the eight special recommendations on terrorist financing.[17]

30. According to the administering Power, Anguilla, along with the other United Kingdom Territories in the Caribbean, has agreed to implement the European Union Savings Tax Directive, which came into effect on 1 July 2005.

31. Moreover, Anguilla introduced in 2006 several pieces of new legislation in the finance area. They include a Private Foundations Act, which would add the concept of private foundations as an alternative to trusts; and a Netting Act to provide for the statutory enforceability of bilateral and multilateral netting or set-off provisions. In addition, an amendment to the International Business Companies Act 2000 to provide for regulations setting out obligatory custodial arrangements for bearer shares is expected to be made. Minor amendments are also expected to be made to the Trust Companies and Offshore Banking Act 2000, Company Management Act 2000, and the Insurance Act 2004.[17]

D. Agriculture and fishery

32. Agricultural activity in Anguilla is limited owing to a combination of poor soil and irregular rainfall. Nevertheless, agriculture continues to play an important part in the livelihood of the local people. In 2005, agriculture, including fishing, crops and livestock, contributed about 2.6 per cent to the GDP of the Territory.[17]

33. In response to demand for vegetables in the tourism sector and the increasing number of retail outlets, a growing number of small farmers have invested in drip irrigation technology for intensive farming, including the Rudolph Gumbs (Blacks) Vegetable Production project, comprising 11 farmers on 6 acres of land. According to the administering Power, an active Farmers' Association is cooperating with government technical officers to increase production of green vegetables and reduce the island's food import bill.[17]

34. Anguilla's fisheries and marine resources hold the potential for the diversification of the tourism-dependent economy. Studies have shown that deep-sea fishing resources in the Anguilla 200-mile exclusive economic zone can be sustainably harnessed to satisfy markets locally and regionally.[17]

35. The Government continues to roll out the implementation of plans for institutional strengthening and human resource development in order to effectively manage the fisheries and other marine resources of the island. The Marine Parks Project which commenced in July 2005 was funded by the National Fish and Wildlife Foundation and National Oceanic and Atmospheric Administration. It is expected to be completed in early 2007.[17]

E. Infrastructure

36. The improvement of roads and the sea ports continued in 2006. New jetties are being constructed at Blowing Point to facilitate the safe movement of passengers

between Blowing Point and St. Martin. The construction of a modern container port is being studied in the context of a master plan drawn up for the Corito area.

37. Furthermore, the improvements at the Wallblake Airport continued to enhance tourism for Anguilla. Aircraft movements, especially in the private jet sector, continued to increase in 2006, creating the need for a larger parking apron for the airport.[17] Following the extension of the runway of Wallblake Airport, in 2005, there were over 500 private/corporate jet landings, and Anguilla began to function as a hub airport for those wishing to travel to St. Barts.

38. According to the administering Power, capital expenditure on the air transport sector over EC$ 10 million is anticipated by the end of 2006, as the Government continues with the implementation of its Medium-Term Air Transport Sector Plan, covering the period 2004 to 2008. The Plan has been endorsed by the European Union, which has pledged €9.09 million (approximately US$ 11.7 million) in support under the European Development Fund, the EDF-9 programme. The proceeds will be used to partly repay the US$ 15 million which the Government borrowed to undertake the runway, terminal and associated expansion in 2004. On 28 November 2006, the first tranche of the funds was received — some US$ 4.5 million. In the longer term, the territorial Government plans a further upgrade to the airport terminal, and creation of an airport authority.[17]

39. Anguilla has approximately 150 kilometres of roads, of which 80 kilometres are paved. According to the administering Power, the government road improvement programme continues to be a priority of the capital budget. In 2006, work began on the resurfacing of 18 kilometres of paved road, which should be completed in early 2007. For the completion of the redevelopment of the main arterial road through the eastern end of the island and the construction of North Hill to Sachasses Road,[17] US$ 7 million in funds have been provided.

40. Investments of close to EC$ 10 million are expected to be spent in 2007 on road development and related improvements.[22]

F. Communications and utilities

41. Anguilla has a modern internal telephone system and a microwave relay to St. Maarten/St. Martin for international calls, with competition in mobile, land line and internet services. According to the administering Power, through an international recruitment process, the Government of Anguilla selected an Executive Director for the Public Utilities Commission, which regulates the sector whose operations are funded by levies on the regulated sectors. Eventually the regulation of the Electricity and Water Sectors will also be brought under the Public Utilities Commission.

42. The territorial Government is implementing the new Water Corporation Act for 2007, which would eventually be regulated by the Public Utilities Commission. The Anguilla Electricity Company purchased two new 5-megawatt generators, which ensures an improved power supply to its customers.[17]

[22] Budget Address 2007; http://www.gov.ai/2007Budget.htm, presented on 12 December 2006, p. 25.

V. Social conditions

A. General

43. Living standards and social indicators in Anguilla compare favourably with those of other countries in the region. The literacy rate is 95 per cent. In 2006, the life expectancy at birth for females was 80.3 years and 74.4 years for males.[2]

44. Anguilla has had a social security scheme since 1982. In 2004, the Government announced plans to introduce a levy to establish a National Health Insurance scheme and legislation is being drafted for enactment in 2007.[17] According to the territorial Government's 2007 budget address, the new insurance will be introduced from 1 July 2007 which is an approximate delay of one year.[23]

45. Financing of three main development projects is envisaged for 2007, the National Community College, a Juvenile Centre, and the relocation and development of a prison.[23]

B. Education

46. Education in Anguilla is free and compulsory between the ages of 5 and 17 delivered through a system from the pre-primary to the post secondary level.[17]

47. There are 11 private preschools in Anguilla, of which 10 are subsidized by the Government for children between the ages of three and five. According to the administering Power, enrolment stands at 412. Children between the ages of 5 and 12 attend primary school. There are six public and two private primary schools, one of which is being assisted. Special education services are provided at centres attached to two of the larger primary schools. Present enrolment in the primary sector is 1,557.[17]

48. Secondary education in Anguilla is provided at two campuses of the only secondary educational institution on Anguilla, the Albena Lake-Hodge Comprehensive School. According to the administering Power, alternative skills programmes are offered at the refurbished old hospital and a Pupil Referral Unit has been established at another site. There are some 1,055 students currently enrolled at the school.[17]

49. The Adult and Continuing Education Unit of the Department of Education and the University of the West Indies Distance Education Centre provide tertiary education in Anguilla, primary and secondary teacher-training and basic skills training. The University of the West Indies extension campus in Anguilla offers a range of distance education programmes based on the system at the University of the West Indies. According to the administering Power, the establishment of a National Community College will continue to be a priority in 2007 as the island responds to the increasing shortage of skilled personnel in the critical hospitality and construction sectors. A Community College Implementation Unit with its own human and other resources was set up in the latter part of 2006. The focus will be the search for a permanent site and accessing the required capital funding.[17]

[23] Idem, p. 26.

50. The United Kingdom announced that citizens from the Overseas Territories will benefit beginning 2007 from the home student fee rate at English universities.[24]

C. Public health

51. There are five health centres in the island's three health districts. The territorial Government's health priorities, set out in the strategic plan for health for 2003-2008, include the continued strengthening of primary and secondary health-care services; development of the Health Protection and Quality Assurance Department of the Ministry of Health, which includes environmental health, water quality monitoring, solid waste disposal services and the regulation of public and private health services; expansion of mental health and psychiatric services; care of the elderly; prevention and treatment of HIV/AIDS and other communicable and non-communicable diseases.[17]

52. Under the 2007 budget, provisions to the Health Authority increased by 12 per cent, from EC$ 15.2 million in 2006 to EC$ 17 million in 2007.[25]

53. The Board of the Health Authority of Anguilla, installed in December 2003, took over responsibility for all primary, secondary and personal health-care services in January 2004. The Ministry of Social Development is charged with regulating and monitoring public and private health sectors, including the Health Authority of Anguilla, performing policy-making, regulatory and purchasing roles as it relates to health services.[17]

54. In July 2006, the Health Authority of Anguilla signed a letter of agreement with the Pan American Health Organization, involving a grant of US$ 10,000 to support the Authority's activities relating to the accreditation of the health services until the end of 2006.[26]

55. Expenditure on health services, including regulation and protection, accounts for approximately 15 per cent of the recurrent expenditure estimates.

D. Crime

56. The crime rate in Anguilla is low by regional and international standards, but growing. Steps continue to be taken to counter the trend. For instance, according to the administering Power, in March 2006 a task force was established to deal specifically with drugs and firearms. Subsequently, the detection rate and seizure of drugs and firearms increased significantly. Seven firearms were seized, together with a large quantity of ammunition and about 300 kilograms of cannabis. In 2006, the trend towards a rising number of firearm incidents was reversed. The number fell from 16 in 2005 and 11 in 2004 to 7 in 2006. Moreover, the computerization of police headquarters was completed in 2006.[17]

57. Law enforcement officials from a number of Caribbean territories attended an annual conference which facilitates discussion on law enforcement matters for

[24] www.fco.gov.uk, 23 November 2006, Lord Triesman, Overseas Territories Minister, eighth meeting of the Overseas Territories Consultative Council (OTCC) on 21 and 22 November.

[25] Budget Address 2007; http:www.gov.ai/2007Budget.htm, presented on 12 December 2006, p. 23.

[26] www.anguillaguide.com, 20 July 2006.

United Kingdom Overseas Territories in Anguilla in April 2006. Among the topics were a unified approach to crime prevention, witness protection, drug trafficking threats, immigration and customs enforcement, regional and international cooperation to fight crime, and recruitment and retention of law enforcement personnel.[19]

58. In September 2006, the territorial Government and the Foreign and Commonwealth Office agreed to extend the secondment of three retired United Kingdom police officers to the Drugs and Firearms Task Force of the Royal Anguilla Police until March 2007. They played an important role in reducing violent and drug-related crime.[27]

59. In February 2007 a conference combining meetings of United Kingdom Overseas Territories Law Enforcement officials and attorney generals and their counterparts from Anguilla and the region met in Grand Cayman to tackle the issue of security in the region. The topics discussed included witness protection, judicial sentencing, deoxyribonucleic acid (DNA) technology and money-laundering.[28]

VI. Relations with international organizations and partners

60. Anguilla is a member of the Eastern Caribbean Central Bank and an associate member of the Organization of Eastern Caribbean States, the Association of Caribbean States, the Economic Commission for Latin America and the Caribbean and the Caribbean Community and Common Market.

61. As a Non-Self-Governing Territory of the United Kingdom, Anguilla is associated with the European Union but not a part of it. The Territory has yet to establish its relation to the European Union's Economic Partnership Agreement.[29]

62. At the Overseas Territories Consultative Council meeting held in London on 21 and 22 November 2006, the United Kingdom and the Overseas Territories represented, including Anguilla, inter alia agreed in principle that the United Nations Convention against Corruption would be extended to the Overseas Territories at the earliest opportunity.[30]

63. Information on United Nations system activities involving Anguilla, including on the applicability of the International Labour Organization Conventions and Recommendations, is contained in the report of the President of the Economic and Social Council on consultations with the Special Committee (E/2006/47).

[27] www.gov.ai.com, Public relations, 14 September 2006.

[28] www.anguillanews.com, 15 February 2007.

[29] See European Union publication entitled "European Union-Caribbean Economic Partnership Agreement", 2006, p. 13.

[30] http://www.fco.gov.uk, 23 November 2006 (The British Virgin Islands had already agreed to this and all the other territories had signified their agreement in principle).

VII. Future status of the Territory

A. Position of the territorial Government

64. Developments on constitutional and electoral reform efforts involving the future status of Anguilla are referred to in chapter II, "Constitutional, legal and political issues".

B. Position of the administering Power

65. In a statement made on 24 April 2006 while visiting the Turks and Caicos Islands, the Overseas Territories Minister Lord Triesman took stock of the relationship between the United Kingdom and the Overseas Territories seven years after the 1999 White Paper,[31] and reiterated the United Kingdom's approach as follows:

> "As the White Paper made clear, the United Kingdom will always be ready to help any territory become independent where this is an option, and if that is the clear and settled will of the people. The United Kingdom has no desire for any territory to remain British against its people's wishes. We have no continuing colonial objectives.
>
> "However, if the people of a territory wish to retain the British link, then the United Kingdom will continue to honour its responsibilities for it. But I am, and I should be, answerable to the United Kingdom Parliament for the Territories. As long as the United Kingdom retains those responsibilities, it needs to be in a position where it can discharge them properly. And that means that the United Kingdom needs to retain a sufficient level of powers to do this.
>
> "In this process, the Governor, who also represents the Territory to the United Kingdom Government, has a vital role. He or she must ensure, in partnership with the territory Government, that high standards are maintained in key areas such as the public service, the police, the judiciary, finance, aviation and maritime security — indeed security generally — and human rights, in the interests of the peoples of the Territory as a whole.
>
> "In this context, it might be helpful if I set out the United Kingdom position on alternative forms of relationship, some of which I know have been discussed here in the Turks and Caicos Islands in recent weeks. United Nations General Assembly resolution 1541 (XV) set out some options for the relationship between administering Powers and Territories, including independence, integration and free association. The United Kingdom did not vote in favour of that resolution, and does not regard itself as bound by it. Integration would mean the Turks and Caicos Islands or any of the other Territories becoming a full part of the United Kingdom, like the Isle of Wight. It would mean that the people of the Territory would have to pay United Kingdom taxes. And United Kingdom policy would apply in areas that have traditionally been the responsibility of the territory Government — for example education and health.

[31] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", White Paper submitted to the House of Commons on 17 March 1999 by the United Kingdom Secretary of State for Foreign and Commonwealth Affairs; reproduced in A/AC.109/1999/1, annex.

> "I do not believe that this is an option that would find favour in the Territories. Nor does it in the United Kingdom. The option of free association is also unacceptable. As defined by the United Nations, it would mean the Territory drawing up its Constitution free from any outside involvement. The United Kingdom would retain all the responsibilities for the Territory, but would not be able to ensure that it had the powers to enable it to fulfil these responsibilities. Ministers answerable to government in Westminster cannot, and should not, put themselves in that position. So our aim is to work for a relationship with the territory Government which satisfies the needs of both sides."[32]

66. Moreover, in a statement before the Special Political and Decolonization Committee (Fourth Committee) during the sixty-first session of the General Assembly, held on 5 October 2006, the representative of the United Kingdom said that the criteria used by the Special Committee of 24 in its deliberation on whether a Non-Self-Governing-Territory should be "delisted" were outdated and failed to take account of the way that relationships between the United Kingdom and its Overseas Territories had been modernized, in a way that was acceptable to both parties.[33]

67. In a communication dated 9 January 2007, the administering Power provided the information set out below:

> "Following the publication of the 1999 White Paper on the Overseas Territories, the United Kingdom Government instigated a series of constitutional reviews in the Overseas Territories. The aim is for each Overseas Territory to consider its constitution and, after full public consultation, to make proposals for change to the United Kingdom Government, which would then be considered. The 1999 White Paper made it clear that, whilst there was no pressure from the United Kingdom Government for the Overseas Territories to move towards independence, the United Kingdom Government would not stand in the way of any Overseas Territory becoming independent, where this is an option (i.e., not in the case of Gibraltar), if that is the freely expressed wish of its people. This complies with the principle of self-determination set out in article I of the International Covenant on Civil and Political Rights.
>
> "But United Kingdom Ministers have made it clear that as long as the Territories wish to retain links with the United Kingdom, the United Kingdom Government will retain sufficient powers, including through the Governor, to ensure the implementation of international obligations, to protect itself against contingent liabilities, and to ensure the good governance of the Territory, including maintaining the independence of the judiciary, the administration of justice and the political impartiality of the public service.
>
> "This approach is consistent with the 1999 White Paper, which recognized that, in modernizing any constitution, account should be taken of the mutual obligations and responsibilities involved in the partnership between the United Kingdom and the Overseas Territories.

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[32] "A Successful Future", Lord Triesman Speech, Turks and Caicos Islands, 24 April 2006 (www.fco.gov.uk).

[33] Information transmitted by the administering Power, 15 January 2007; see also A/C.4/61/SR.5.

"As for 'free association', the United Kingdom Government has indicated that it would not be possible to resurrect the system of full internal self-government that applied in the West Indies Associated States, established by the West Indies Act in 1967. This was an arrangement put in place when it was expected that the Associated States would move to independence (as in the case of the Bermuda Constitution). In the modern environment when the United Kingdom's contingent liabilities in the Overseas Territories are much greater, the United Kingdom Government cannot be held to be responsible internationally for the Overseas Territories without the capacity of intervening to ensure good governance when things go wrong.

"The key, therefore, in the Constitutional Reviews is, as long as the Overseas Territories choose to retain their link with the United Kingdom, to try to reconcile the Overseas Territories' wish for greater self-government with the United Kingdom's overall responsibility for the Overseas Territories' good governance and compliance with international obligations. This will be the issue for discussion and negotiation between Anguilla and the United Kingdom when Anguilla presents its proposals for constitutional and electoral reform in due course. In the meantime, the United Kingdom Government's overall objectives towards the Overseas Territories are to maintain their security, prosperity and good governance."[17]

C. Action by the General Assembly

68. On 14 December 2006, the General Assembly adopted by a vote of 173 to none, with four abstentions, resolutions 61/128 A and B; section II of resolution 61/128 B concerns Anguilla.

United Nations A/AC.109/2007/9

General Assembly

Distr.: General
22 March 2007

Original: English

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

New Caledonia

Working paper prepared by the Secretariat

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I. General

1. New Caledonia,[1] a Non-Self-Governing Territory administered by France, is located in the Pacific Ocean, about 1,500 kilometres east of Australia and 1,700 kilometres north of New Zealand. It comprises one large island, known as Grande Terre, and smaller islands known as the Loyalty Islands (Ouvéa, Maré, Lifou and Tiga), the Bélap Archipelago, the Isle of Pines and Huon Islands. There are also several uninhabited islands to the north of the Loyalty Islands. The area of Grande Terre is 16,750 square kilometres, and that of the Territory is 19,103 square kilometres. Nouméa, the capital, is located in the south of Grande Terre. The Territory is divided into three provinces, South and North (on Grande Terre) and the Loyalty Islands.

2. In August 2004, a census completed by the French National Institute of Statistics and Economic Studies placed the population of New Caledonia at 230,789, an increase of 33,953, or 14.7 per cent since the last census in 1996.[2] The 2004 census, which focused on regional groupings of the population, as opposed to ethnic groupings, provoked controversy and incited a boycott by the indigenous movement, dissatisfied with the omission of questions regarding ethnicity. The questions had been removed following an intervention by the President of France, who had labelled them scandalous and unlawful.

3. As a result, the only information on ethnicity currently available dates from 1996. According to the 1996 census, the population comprised indigenous Melanesians, known as Kanaks (42.5 per cent); persons of European origin, mainly French (37.1 per cent); Wallisians (8.4 per cent); Polynesians (3.8 per cent); and others, mainly Indonesians and Vietnamese (8.2 per cent). Almost half the population was reported to be under 25 years of age.

4. Although there was a measurable increase in the population between 1996 and 2004, as mentioned above, the demographics remained unaltered, with the majority of the population (68 per cent) living in the South Province, mainly around the greater Nouméa area, while 21 per cent lived in the North Province, and only 10.6 per cent in the Loyalty Islands. In 1996, the native Kanak population made up almost 78 per cent of the population of the North Province and 97 per cent of the population of the Islands, but only 25.5 per cent of the population of the South Province. With respect to the Territory's second largest population group, persons of European origin, 89 per cent lived in the South Province. The official language is French and about 28 Melanesian-Polynesian dialects are spoken.

5. The political and administrative structures of New Caledonia were fundamentally altered by the Nouméa Accord (A/AC.109/2114, annex), signed in May 1998 between the Government of France, the pro-independence Front de libération national kanak socialiste (FLNKS) and the integrationist Rassemblement pour la Calédonie dans la République (RPCR). Under the terms of the Accord, the New Caledonian parties opted for a negotiated solution and progressive autonomy from France rather than an immediate referendum on political status. The transfer of powers from France began in 2000 and is to end with a referendum between 2013

[1] The information contained in the present paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 e of the Charter of the United Nations.

[2] Institut de la statistique et des études économiques 2004 — Nouvelle Calédonie.

and 2018, when the Territory will opt for either full independence or a form of associated statehood. The characteristics of New Caledonia's economy and employment, as well as current efforts to implement a policy of redressing economic and social imbalances between the more prosperous South Province and the less developed North Province and Loyalty Islands, are described in section III below.

II. Constitutional, political and legal issues

A. Recent developments

6. Following the ratification of the Nouméa Accord by the people of the Territory and the codification of its provisions into French law, New Caledonia is no longer considered an Overseas Territory. Instead, the Government of France describes it as a community sui generis, which has institutions designed for it alone to which certain non-revocable powers of State will gradually be transferred. Details on the political and legislative aspects of the Nouméa process and the new institutional arrangements are contained in the 2005 report (see A/AC.109/2005/13, paras. 6-10, and 30 and 31).

7. For 25 years, the party system in New Caledonia was dominated by the anti-independence RPCR, which was founded and led until 2005 by long-time President of the South Province, Jacques Lafleur. According to the administering Power, uneasiness about one party dominating the party system grew and culminated just months prior to the Caledonian general elections in May 2004 with the emergence of a new party, l'Avenir Ensemble (AE).[3] The AE party is opposed to complete independence from France. However, the party is seen as being more oriented towards consensus with the indigenous Kanak movement, and supportive of full implementation of the Nouméa Accord. The indigenous movement is part of FLNKS, a coalition of several pro-independence groups, of which only the Union calédonienne (UC) and the Parti de libération kanak (PALIKA) are represented in the Territory's Congress.

8. FLNKS has faced problems in defining its internal organization and party strategy and has been without a leader since 2002, owing to splits within the alliance. FLNKS insists that a future vote about New Caledonia's status should be about full independence rather than an endorsement of a continuing relationship with France, as advocated by the anti-independence party RPCR and the leaders of the AE party.[4]

9. Although RPCR remains the main opposition force, the party is also facing internal division amid doubts about its survival as a major political force. Its former leader, Mr. Lafleur, established a new party, the Rassemblement pour la Calédonie (RPC), in 2005. RPC shares the anti-independence agenda of RPCR but is highly critical of its failure to defeat AE.[5]

10. The last elections for the three Provincial Assemblies, which also determine the composition of Congress, the legislative body of New Caledonia, were held on 9 May 2004, ending the 25-year domination of the Caledonian Government by

[3] Administering Power, "*L'évolution de la Nouvelle Calédonie en 2004*".
[4] Economist Intelligence Unit, *Country Report* (December 2005).
[5] *Les Nouvelles Calédoniennes*, www.lnc.nc, 30 October 2006.

RPCR (see para. 9 above). In its first election, AE obtained 16 of the 54 seats in Congress, on a par with RPCR. One of the parties normally under the umbrella of FLNKS, UC, decided to run its own candidates separately in the elections. While FLNKS won nine seats, UC obtained seven. The National Front received four seats in Congress and two smaller parties obtained one seat each. The anti-independence alliance increased its representation from 31 seats to 36 seats. According to a report of the French National Assembly, that gain was due mainly to fragmentation within the independence alliance. In the South Province, where the independence movement was split into several lists, no representative received the required 5 per cent of the vote necessary for a seat.[6]

11. At the level of the provinces, AE won 19 of the 40 seats in the South Province, while the North Province remained in the hands of FLNKS and UC, with the parties holding 11 and 9 seats respectively from a total of 22. The independence alliance was the strongest performer in the Loyalty Islands, where it held 6 of 14 seats. In each province, a member of the leading party was elected President of the Provincial Assembly, who also acts as the chief executive of the province. RPCR also lost the presidency in the South Province, which has been considered its stronghold for the past 25 years when RPCR President Jacques Lafleur served in that post. In January 2005, Mr. Lafleur resigned from his post as President of RPCR and was replaced by Pierre Frogier.[7] In view of the results, a report of the French National Assembly spoke of growing political division between a pro-independence North and an anti-independence South.[6] The next elections for Congress and the Provincial Assemblies are scheduled for 2009. Further details on the structure of the Government are contained in the 2005 report (see A/AC.109/2005/13, paras. 11-16, 25 and 26).

12. In July 2006, the leader of AE, Harold Martin, was re-elected as President of the Congress.[8] As head of AE, Mr. Martin has held talks with RPCR President Frogier to discuss a possible rapprochement between the parties before the 2007 presidential election in France. Both parties claim allegiance to the French ruling party, Union pour un mouvement populaire (UMP). UMP President Nicolas Sarkozy has encouraged AE and RPCR to unify in support of his presidential candidacy, though Mr. Martin clarified that the parties are simply seeking improved relations, not a merger.[9]

13. Political stability in New Caledonia can be undermined by the existence of the "collegiality clause" of the Nouméa Accord, which states that if a member of the 11-member Government Cabinet resigns and there is no replacement from his or her party, the whole Government will have to be re-elected by a vote in Congress. As has happened on previous occasions, there is a risk that disgruntled parties might resort to the clause again in order to force a new election.[10]

14. Marie-Noëlle Thémereau of AE was elected territorial President in June 2004, following a political impasse caused by a disagreement between AE and RPCR. Déwé Gorodey, a Kanak writer and FLNKS member, was elected Vice-President, marking the first time that the territorial Government has been led by two women.[11]

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[6] Assemblée nationale, report No. 1868 (13 October 2004).

[7] *Pacific Islands Report*, 23 June 2004.

[8] *Pacific Magazine*, www. pacificmagazine.net/news, 2 October 2006.

[9] Ibid., 28 July 2006.

[10] Economist Intelligence Unit, *Country Report* (December 2003).

[11] *Pacific Islands Report*, 13 July 2004.

AE and RPCR each have four executive seats in the Government, FLNKS holding the balance of power with three seats.[12]

15. Regarding French State institutions, in the French Senate elections held in September 2001, incumbent Simon Loueckhote of RPCR was elected New Caledonia's Senator for an additional nine years. In the June 2002 elections for the French National Assembly, New Caledonian voters returned two members of the pro-integrationist RPCR to their seats, namely, Mr. Lafleur, who has held the seat in Paris since 1978, and Mr. Frogier.[13] As mentioned earlier, Mr. Lafleur has since resigned from both RPCR and UMP. The first round of the next French presidential election will take place in April 2007, followed by a possible second round in May and legislative elections in June 2007.

16. The French State is represented in the Territory by High Commissioner Michel Mathieu, who was appointed to the post in September 2005.

17. As envisaged in the Nouméa Accord, in 1999 the new institutions began to enact country laws (*lois du pays*), which have the full force of law and can be contested only before the Constitutional Council. Since 1999, 39 such laws have been adopted. The most recent information provided by the administering Power notes that five of these laws were adopted in 2005, relating to social, finance and customs issues and various tax laws.[14]

18. In the past, in spite of the considerable institutional and administrative advances described above, progress was often hindered by friction between RPCR and FLNKS, owing to their differing interpretations of collegiality in Government matters. They held opposing views on issues such as voter eligibility, mining initiatives and, especially, implementation of the Nouméa Accord. President Thémereau and her party have promised to resume implementation of the commitments outlined in the Nouméa Accord, especially those related to social reform, in collaboration with indigenous Kanak leaders. In this regard the Government has raised the minimum wage and has begun to tackle a chronic shortage of low-cost housing. It also gained congressional approval in January 2007 to establish the first Kanak languages academy, which aims to preserve up to 40 indigenous languages and dialects.[15] The Government, however, remains opposed to full independence for the Territory from France, while Kanak leaders mostly favour full independence and are becoming increasingly impatient with the slow implementation of the Nouméa Accord.[4]

19. In January 2006, the Secretary-General of the United Nations received a letter from the National Council for Indigenous Peoples' Rights of New Caledonia (Conseil National pour les Droits du Peuple Autochtone en Kanaky Nouvelle Calédonie (CNDPA)), stating its dissatisfaction with the implementation of the Nouméa Accord. According to CNDPA, the indigenous Kanak people have been systematically excluded from the process of power transfer mandated by the Accord and chronically underrepresented in New Caledonia's governmental and social structures.

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[12] Economist Intelligence Unit, *Country Profile 2006*.

[13] *Oceania Flash*, 17 June 2002.

[14] *Rapport annuel de la France aux Nations Unies: la nouvelle Calédonie* (December 2005).

[15] *Pacific Magazine*, www.pacificmagazine.net, 18 January 2007.

20. In 2004, the French Government expressed its intention to be an impartial and engaged judge during the Nouméa process, and President Chirac stressed the role of the French Government as a partner in the transfer of further jurisdictions to New Caledonia. He pledged that the Nouméa Accord would be fully implemented and respected by the State and that it would help to further the development of education, environment, regional cooperation and metallurgical projects.[3]

21. As mentioned above (see para. 10), divisions within the pro-independence camp have been apparent since the resignation of FLNKS leader Roch Wamytam from the Government in October 2001 and the growing conflict between the various components of the party, including among those represented in Congress. While PALIKA represents a moderate position with regard to the implementation of the Nouméa Accord, UC has adopted a more radical approach towards independence.[16] The whole implementation process of the Nouméa Accord could be jeopardized by ongoing instability and observers have noted that the dissolution of FLNKS cannot be ruled out.[10]

22. In January 2005 the Committee of signatories of the Nouméa Accord met in Paris. Prior to the meeting, it was discussed whether AE should be allowed to participate in the follow-up process, which historically was supposed to be between France and the original signatories of the Accord. RPCR was opposed to the idea of including the new party. In the end, a compromise was reached stipulating that each delegation was allowed to include members of other parties, such as AE.[16] According to the most recent information provided by the administering Power, the following issues were discussed: the composition of the electorate for New Caledonian elections; the introduction of the euro; new development agreements for the period 2006 to 2009; and the implications of the new census regarding financial support for New Caledonia.

23. The issue of voter eligibility is central to the implementation of the Nouméa Accord. On 19 February 2007, the French Assembly passed a controversial amendment to the French Constitution, allowing New Caledonia to restrict voter eligibility in local polls to those who were on the 1998 roll when the Nouméa Accord was signed. That measure, known as the "frozen" electoral roll, will affect approximately 7,000 French citizens who arrived in New Caledonia after 1998. The issue became highly politicized in France, with the ruling UMP internally divided and the opposition Parti Socialiste and Union pour la démocratie française in support.[17] Critics of the amendment, including anti-independence parties, argued that it represented a major infringement of the constitutional principle of universal suffrage, while both French supporters and pro-independence parties defended the measure as a guarantee to the Kanak population that it will not be marginalized by a sudden influx of French voters in future elections.[18]

24. Another political issue that continues to cause tension in New Caledonia is the inter-ethnic strain between the Kanaks and the settlers from the French territory of Wallis and Futuna, and the confrontations that flared between them in 2001 and 2002 (details contained in A/AC.109/2002/13, paras. 30-32, A/AC.109/2003/7, para. 32, and A/AC.109/2005/13, paras. 37 and 38). Tensions between the two

[16] *Pacific Islands Report*, 12 January 2005.

[17] *Le Monde*, 15 January 2007.

[18] *Pacific Magazine*, www.pacificmagazine.net/news, 20 February 2007.

groups resurged in August 2006, with a number of violent confrontations and acts of arson in suburbs of Nouméa.[19]

B. External relations

25. The legal framework within which New Caledonia may establish external relations is governed by the Organic Law of 1999 (details are contained in A/AC.109/2005/13, para. 9). In that regard, the participants at the January 2002 meeting of the signatories of the Nouméa Accord agreed on the importance of developing trade and other relations with the larger actors in the Pacific region (Australia and New Zealand), as well as with other island States, and of building on existing links with regional organizations. Another concern expressed was the need to establish better links with the European Union (EU), given its political, commercial and financial importance.

26. On this multilateral front, New Caledonia has strengthened its ties with the EU, within which it has the status of associated territory. According to a 2006 Government press release, the European Development Fund is currently funding a number of projects in the Territory, including vocational training programmes, a nearly completed Nouméa aquarium and renovation of the Nouméa-La Tontouta airport.[20] New Caledonia participated in the EU Overseas Countries and Territories Forum, held in Nuuk, Greenland, from 5 to 7 September 2006. The agenda covered the environment, trade and regional integration.[21]

27. Another important issue related to the EU is the possible introduction of the euro in New Caledonia in 2007. Currently, the Territory's currency is the Comptoirs Français du Pacifique franc, which has an exchange rate fixed to the euro. According to President Thémereau, a consensus among the Territory's major political forces is a prerequisite for any decision with regard to the introduction of the euro. The European Union demands it be simultaneously introduced into all three French Pacific Territories following the formally expressed wish of their Governments.[22]

28. In October 2006, at the 37th Summit of the Pacific Islands Forum in Fiji, New Caledonia gained associate member status, giving the Territory the right to participate in Forum discussions. Previously, New Caledonia only had observer status.[23]

[19] Ibid., 29 August 2006.

[20] Ibid., 10 May 2006.

[21] See European Commission report on the Fifth OCT-EU Forum, http://ec.europa.eu, 20 September 2006.

[22] Marie-Noëlle Thémereau, "Declaration de politique générale", 17 August 2004; Conclusions of the Committee of Signatories of the Nouméa Accord, 20 January 2005.

[23] Economist Intelligence Unit, *Country Report* (December 2006).

III. Socio-economic conditions

A. General

29. New Caledonia, with its considerable economic assets, ranks among the more affluent Pacific nations. New Caledonians, with an average annual per capita income of $12,800, enjoy one of the highest incomes in the Pacific region.[24] The Territory, however, also suffers from long-standing structural imbalances between the economically dominant South Province and the considerably less developed North Province and the Loyalty Islands. Therefore, in the context of the Matignon Accords of 1988 (see A/AC.109/1000, paras. 9-14) and the Nouméa Accord of 1998, many of the efforts of the Government of France and New Caledonian institutions in the past decade have been aimed at *rééquilibrage*; that is, redressing the balance among the three provinces in terms of infrastructure, social services and employment opportunities. Accordingly, 70 per cent of State assistance to the Territory is earmarked for the North Province and the Loyalty Islands, with the remaining 30 per cent for the South Province. In addition, €19 million have been reserved for investment contracts between the French State and the local government communities (*communes*) in the Territory. At the end of 2003, 19 *communes* had signed contracts with the State, focused on road works, public buildings, new schools, water supplies, sanitation and waste disposal. In 2005, the State awarded two grants for a total of €7 million to these local government communities. The administering Power reported a slow use of credits, however, owing to difficulties in the application process, and in putting the projects into effect.[16]

30. According to information provided by the administering Power, the French State continued to offer fiscal incentives to encourage investment in its Overseas Territories, as well as specific tax facilities aimed at strengthening New Caledonia's metallurgy and mining sectors, hotel industry, housing, transport sector and public service concessions.

31. New Caledonia will remain heavily dependent on direct financial transfers from France, which are equivalent to around 30 per cent of gross domestic product (GDP). Approximately 80 per cent of that amount is spent on health, education and the payment of public service salaries, with the remainder funding development schemes, mainly in the North and Island Provinces. In December 2005, the French Government announced an increase in financial assistance to the Territory amounting to €910 million (€4,015 per inhabitant). That amount included €128 million for defence, €16.2 million for justice and €21.2 million for finance and industry.[16]

32. Passed by the Territorial Congress in December 2006, the 2007 budget totals $1.3 billion. The Government expects to raise the same amount in revenue, by placing a particular focus on better management and a reform of the tax system, which could eventually see the introduction of an equivalent to a value added tax to replace the still prevalent import tax system.[25]

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[24] *L'Humanité*, 3 January 2003; Virtual Information Centre, 30 January 2004 (see www.vic-info.org).

[25] *Oceania Flash*, 27 December 2006.

33. Meanwhile, as discussed in paragraph 27 above, New Caledonia's currency, the Pacific franc, could be replaced by the euro if all three French Pacific Territories concur. The Chamber of Commerce has commissioned feasibility studies, and its Chairman has stated that the euro would facilitate trade, promote savings and attract foreign investment. On the other hand, the change is opposed by the pro-independence parties, which assert that, under the provisions of the Nouméa Accord, currency matters are to be dealt with locally, and a switch to the euro would serve only to bind New Caledonia more closely to France.[26]

34. Rising costs of living remain an issue of concern. In June 2006, the Territorial Government announced a series of measures aimed at the population's shrinking purchasing power. Economy Minister Didier Leroux said that prices of essential items would be closely monitored for an initial period of 12 months and rent prices would be frozen.[27] In November 2006, the Territorial Congress endorsed far-reaching tax exemptions for a basket of 14 essential food items.[28]

B. Labour

35. According to information provided by the administering Power, 7,842 persons were unemployed at the end of December 2004, corresponding to an unemployment rate of approximately 9.4 per cent. The same source noted that labour disputes are frequent in New Caledonia, leading to many hours of lost productivity owing to strikes and lockouts Despite the more conciliatory stance of the AE-led Government towards the Kanak population, industrial disputes and strikes, which are sometimes accompanied by violence, are expected to remain a feature of the economic and political scene.[29]

36. In September 2006, the recently formed Confederation of New Caledonian Workers' Union (CSTNC) led a general strike of Kanak workers to protest operations at the Goro nickel mine in the Southern Province. According to CSTNC leader Sylvain Néa, the strikers aimed to raise awareness about not only the environmental impact of the mine, but also the perceived threat of foreign workers and the high cost of living in the Territory.[30] Local trade unions are strongly opposed to the arrival of several thousand Filipino workers hired in 2006 to work at the Goro mine.

37. Unemployment is high among the Kanaks, who have been calling for a law giving preferences to local workers.[31]

C. Mineral resources

38. New Caledonia's economy is dominated by the nickel industry. The Territory, which is the third largest nickel producer in the world after the Russian Federation

[26] Ibid., 23 October 2002; Economist Intelligence Unit, *ViewsWire*, 18 December 2002; Economist Intelligence Unit, *Country Report* (March 2005).

[27] *Pacific Magazine*, www.pacificmagazine.net, 7 June 2006.

[28] Ibid., 9 November 2006.

[29] Economist Intelligence Unit (March 2005).

[30] *Pacific Magazine*, www.pacificmagazine.net, 26 September 2006.

[31] *Oxford Analytica*, 26 October 2006.

and Canada, is estimated to have at least 25 per cent of the world's nickel reserves[32] and is responsible for 6 per cent of the world's nickel output, employing some 3,500 people in mining firms of varying sizes. Although this highly dynamic sector makes up between 80 and 90 per cent of New Caledonia's exports and generates numerous related economic activities, it is fragile in that it is almost entirely dependent on international demand and nickel prices. For that reason, emphasis continues to be placed on the development of local metallurgical production, which creates more wealth, rather than on mineral exports.[16] Additionally, strong demand from both China and India and supply disruptions in New Caledonia have kept nickel prices high. Official prices on the London Metal Exchange rose by 135 per cent in 2006 and by another 20 per cent, in January 2007, to a record $950 per metric ton.[33]

39. There are currently three major projects related to nickel mining under way in the Territory, namely, those of Société Le Nickel, Xstrata and Companhia Vale de Rio Doce (see A/AC.109/2000/4, paras. 30-32; A/AC.109/2001/14, paras. 33-36; and A/AC.109/2002/13, paras. 36 and 37). While it is hoped that these projects will lead to significant economic growth, they remain controversial for environmental and financial reasons. There has been an ongoing debate for some years over the impact that new nickel projects will have on New Caledonia's pristine maritime environment and coral reef system. The reef is 1,600 kilometres long and covers about 8,000 square kilometres. It is regarded by scientists as having great research potential and it is also a major tourist attraction. The Kanaks believe that mining rights are being sold off cheaply, that the economic benefits are not flowing to the poorer areas of the Territory and that development will damage the local environment.[29]

40. The first of the three projects is being developed by Société Le Nickel (the New Caledonian affiliate of the French State-owned company Eramet), which is investing between €140 million and €190 million in its Doniambo smelter to boost production from 60,000 tons to 75,000 tons per year. Work on the renovation began in 2006 but faced several delays, as Doniambo was a target of the CSTNC-led strike in September, as well as multiple blockades.[34]

41. The second project under way is a joint venture between the Kanak-controlled Société Minière du Sud-Pacifique and the Canadian company Falconbridge Limited, recently acquired by the Swiss mining group Xstrata.[35] The project will include the construction of a smelter in the North Province to process nickel from the Koniambo mountains. It is estimated that this smelter will produce some 60,000 tons per year, creating 800 jobs directly and 2,000 indirectly. It is also at the heart of a major project to bring wealth and employment to the underdeveloped North Province through the construction of an electric power plant, a deep-water port and a hydraulic dam expected to raise New Caledonia's long-term growth rate to 6.5 per cent.[36] Production is not due to begin until the period 2008-2009, but the North Province government began construction of residential and commercial buildings in 2004 around the Koniambo site in order to prepare for the population increase that will occur when the mine opens.[10]

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[32] Economist Intelligence Unit (December 2002).

[33] *Dow Jones Commodities News*, 7 February 2007.

[34] *Pacific Magazine*, www.pacificmagazine.net, 11 October 2006.

[35] Ibid., 6 November 2006.

[36] Economist Intelligence Unit (March 2006).

42. The third project, a new nickel mine at Goro, South Province, was run by the Canadian company Inco until October 2006, when the Brazilian Companhia Vale de Rio Doce acquired 75 per cent of Inco's shares.[37] The project suffered numerous setbacks in 2006. A riot led by the Kanak environmental group Rheebu Nuu in April 2006 caused approximately $10 million worth of damage.[38] As noted in paragraph 36, a general strike in September 2006 paralysed construction at the mine for several weeks. The Goro project has also been contested by Rheebu Nuu in the French High Court, which ordered a halt to construction of the mine's waste storage site in November 2006. The Paris Court of Appeal overturned that ruling in February 2007, giving permission for the full resumption of construction work on the grounds that environmental studies failed to establish that the storage site posed a pollution risk.[39]

43. The three provinces have each signed up to acquire a total share of 10 per cent in Goro Nickel. The share was originally held by the French Government's mining and geological research department. Notwithstanding further delays, the mine is due to open in 2007 and is expected to eventually produce 60,000 tons of nickel and 5,000 tons of cobalt per year.[40]

D. Tourism

44. In 2003, the New Caledonia Government decided that Japanese nationals, who have been the mainstay of the tourism industry, could visit New Caledonia for 90 days without a visa. In addition, according to the administering Power, the French Foreign Minister proposed that China initiate negotiations on an agreement that would also accord New Caledonia and French Polynesia the status of "approved tourist destination" for Chinese visitors.[3] However, political instability and continuous labour strikes constitute the two main problems for the Territory's tourism sector. The Territory also has to compete with other attractive Pacific Islands, such as Hawaii or Guam.[41]

45. According to the Territory's Institute of Statistics and Economic Studies, tourist arrivals in 2006 totalled 100,491, up from 60,000 in 2005.[42]

46. A strategic plan to revive the tourism industry, commissioned by the Government and published in December 2005, aims to increase the number of tourists to 180,000 during the decade 2005-2015. The plan consists of three phases to be implemented successively in 2006, 2008 and 2012, and will seek to diversify those tourist destinations that are away from the capital. The first phase involved a new marketing strategy and financed rental accommodation designed to attract an upscale clientele. The second phase will increase hotel accommodations by 1,200 rooms, with a view to launching a new tourist image. The final phase will consolidate New Caledonia's position in the international tourism market.[43]

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[37] *Pacific Magazine*, www.pacificmagazine.net, 27 October 2006.
[38] Ibid., 5 April 2006.
[39] Ibid., 6 February 2006.
[40] Inco Limited, 18 February 2005 (www.inco.com).
[41] *Pacific Magazine*, 28 December 2005.
[42] See www.isee.nc.
[43] *Les Nouvelles Calédoniennes*, www.Inc.nc, 16 December 2005.

47. An international cruise company, P&O Cruises, has decided to make New Caledonia its main port of call in an expanded cruise programme from Australia. All three liners on the route have docked at a new port, Ouvéa, since 2005. New Caledonia is now the most frequently visited destination by P&O Cruises in the region, with the Territory receiving almost half of all port visits made by the company's three Australia-based liners. A third Loyalty Islands port, Maré, will be added to the company's growing portfolio of New Caledonian destinations in the near future. Other ports of call are Nouméa, Emerald Bay and the Isle of Pines.[36]

E. Other economic sectors

48. Other sectors that contribute to New Caledonia's GDP are public administration, commerce, services, construction and public works, small- and medium-scale industry, agriculture and tourism.

49. The agriculture and fishery sectors account for only 2 per cent of GDP, yet they increasingly occupy a central place in New Caledonian society, employing some 30 per cent of the population and making it possible to contain the rural exodus. Rural development projects are aimed at increasing the local market, thereby decreasing the need for imported food. Diversification in the agricultural sector and the development of the aquaculture and fishing industries continued to expand in 2006. Fisheries are underdeveloped, with commercial fishing accounting for only a third of the total catch, most of it tuna exported to Japan. While the North Province and Loyalty Islands authorities have continued the expansion of their fishing fleets, there were mounting concerns about falling stocks of certain species of tuna in the region attributable to overfishing, climate change and ocean temperature cycles. In addition, heavy dependence on imported oil is prompting renewed regional interest in alternative fuel sources, such as ethanol from local sugar.[44]

50. The aquaculture industry, which mainly relies on farming shrimp for export, is subsidized by the French Government.

IV. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

51. At its 13th meeting, held on 22 June 2006 (see A/AC.109/2006/SR.13), the Special Committee on decolonization adopted a draft resolution, submitted by Fiji and Papua New Guinea, in which all parties involved in the question of the status of New Caledonia were urged to continue promoting a framework for the peaceful progress of that Territory towards an act of self-determination (see A/AC.109/2006/L.13). Such a framework would safeguard the rights of all New Caledonians, especially the indigenous Kanak people.

[44] Economist Intelligence Unit, *Country Report* (December 2005).

B. Special Political and Decolonization Committee (Fourth Committee)

52. At its 5th meeting, on 5 October 2006, the Fourth Committee heard a statement by petitioner Raphaël Mapou, from the Comité Rheebu Nuu, the Kanak environmental group. Mr. Mapou said that the Kanak people were seeking to recover their sovereignty over New Caledonia's mineral wealth, which the multinational companies sought to appropriate. He expressed doubt as to whether the administering Power was conducting the decolonization process in good faith and whether the process could proceed in accordance with the rules set out by the international community. Mr. Mapou also said that the Kanak people faced an attempt at recolonization under the pretext of development and democracy, while New Caledonia was at great risk of environmental damage and financial loss at the hands of multinational companies (see A/C.4/61/SR.5). At its 7th meeting, on 11 October 2006, the Fourth Committee adopted a draft resolution on the question of New Caledonia (see A/C.4/61/SR.7).

C. Action by the General Assembly

53. At its 79th plenary meeting, on 14 December 2006, the General Assembly adopted without a vote resolution 61/126 on the question of New Caledonia.

United Nations A/AC.109/2007/10

General Assembly

Distr.: General
27 March 2007

Original: English

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Bermuda

Working paper prepared by the Secretariat

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I. General

1. Bermuda is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland.[1] The Territory is located in the western part of the Atlantic Ocean, about 917 kilometres east of the nearest continental shore, the North Carolina coast of the United States of America. The Territory, covering 57 square kilometres, consists of 8 major and 130 smaller islands. The largest is Great Island, or Main Island. Hamilton, the capital, and St. George's are the two main towns.

2. Discovered by Spanish navigator Juan de Bermúdez in 1505, Bermuda celebrated its 500th anniversary in 2005.[2] In 1609, Bermuda was settled by a group of English colonists and in 1610 the first slaves were brought to work on the farms and to dive for pearls. In 1620, the first Parliament was held after the Crown granted the colony limited self-government. In 1968, Bermuda was granted internal self-government and a new Constitution. In 1995, a referendum was held on the question of independence. Of the 58.8 per cent of eligible voters who participated, which is a small number by Bermudian standards, 73.6 per cent voted against independence. The then-opposition party had organized a boycott of the referendum among supporters of independence arguing that the issue should be resolved by general election.

3. In 2006 the population was estimated at 65,000.[3] The census conducted in 2000 established Bermuda's resident population at 62,059, of whom 55 per cent were black, 34 per cent white and the remaining 11 per cent mixed or other races, with an estimated growth rate of 0.75 per cent for 2000.[4] The number of foreign-born residents represented 28 per cent of the population.[5] The Territory is very densely populated, with approximately 1,180 inhabitants per square kilometre, and all of its population live in urban areas.

4. The Overseas Territories Act, which came into force in 2002, provides British citizenship to the peoples of its Territories, including Bermudians. That law allows Bermudians to hold British passports and to work anywhere in the European Union.

II. Constitutional, legal and political issues

5. The Constitution of Bermuda, adopted in 1968, was amended in 1973, 1979, 1989, 2001 and 2003. The Governor (and Commander-in-Chief) is appointed by the United Kingdom, after consultations with the Territory's Premier. The Governor is responsible for defence, external affairs, internal security and the police. The current Governor of Bermuda, John Vereker, took office in April 2002.[6]

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[1] The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

[2] *The Royal Gazette*, 26 April 2005.

[3] Economist Intelligence Unit, Bermuda, Country Report, www.eiu.com, 1 January 2007.

[4] www.caribbeannetnews.com, 27 November 2006.

[5] Department of Statistics, Government of Bermuda.

[6] Information transmitted by the administering Power on 11 January 2007.

6. Bermuda has a parliamentary system of government. The Government comprises a Governor, a Deputy Governor, a Cabinet and a bicameral legislature, with a House of Assembly of 36 members directly elected for a five-year term and a Senate of 11 appointed members. Five members of the Senate are appointed by the Governor, on the advice of the Premier, three on the advice of the leader of the opposition and three by the Governor at his discretion. The Governor appoints as Premier the member of the House of Assembly who appears to him or her to be best able to command the confidence of a majority of the members of that House. The Premier heads a Cabinet that may not comprise more than 14 members of the legislature.[6]

7. Bermuda's law and legal system are based on English common law and principles of equity, English statute law (in force since 1612) and Acts of the Bermuda Parliament passed since then. The judiciary is a separate body from the Government, and its members are not elected but are appointed on the advice of the Chief Justice. There are three courts presiding in Bermuda, namely, the Magistrates' Court, the Supreme Court and the Court of Appeal.

8. There are two official political parties in the Territory. The Progressive Labour Party (PLP) was formed by the black majority in 1963. The United Bermuda Party (UBP) was formed in 1964, largely by the white population.[6]

9. In the 1998 general election PLP defeated UBP and took power for the first time in the 30 years since the party system began in 1968. PLP was elected for a second five-year term in 2003, occupying 22 seats in the House of Assembly. Premier Ewart Frederick Brown took office on 30 October 2006, following his election as the leader of the governing PLP, replacing Alexander Scott in each capacity. The next election is due by August 2008.[6]

10. Voters in the general and other elections or referendums must be 18 years of age and Bermudian by birth or status, or non-Bermudian long-term residents who are citizens of the British Commonwealth and registered to vote annually since 1979. In 2003, there were approximately 39,400 registered voters, about 63 per cent of the total population.[6]

11. In significant measure, racial divisions in Bermuda continue to be played out in the support for, or opposition to, independence and the method to be used to ascertain the wishes of the population on the question. The ruling PLP wants the issue of independence settled in the context of an election, while the opposition UBP favours using a referendum, as has been done in the past.

12. As previously reported, the Bermuda Independence Commission, set up in December 2004, issued an official report in August 2005.[7] On the question of the use of either a general election or a referendum to test public opinion on independence, the Commission concluded that it was incumbent upon both political parties to share the merits of each method.

13. Furthermore, in November 2005, the speech delivered by the Governor on the occasion of the opening of Bermuda's Parliament (known as the speech from the Throne), reflected the position of the territorial Government that independence was a natural progression for a mature jurisdiction such as Bermuda. The Government of Bermuda intended to present a Green Paper for discussion within the House of

[7] *Report of the Bermuda Independence Commission*, August 2005.

Assembly and the public, and subsequently a White Paper, outlining the Government's policy proposals for an independent Bermuda.

14. In November 2006, with the new Premier in place, the Governor stated in his speech from the Throne that Bermuda was unique and constitutionally advanced, economically sound and politically stable.[8] In the same month, the Premier said that "Independence is not on the front burner, but it is still on the stove".[9] The campaign to gain independence from the United Kingdom is expected to receive less fervent attention from the current territorial Government. Although the Premier was pro-independence, he had not linked his leadership bid to the issue.[3]

15. According to the administering Power, in 2006, PLP held public meetings to discuss independence for Bermuda, such as the one held on 29 June 2006 in St. George's.[10] Towards the end of the year, according to a new poll, support for independence had dipped to 17 per cent from 21 per cent in both September and July.[11]

16. During his visit to London in November 2006, the Premier reportedly voiced concern over a statement from Government House suggesting that in the event of independence only Bermudians with parents or grandparents from Britain would be granted British citizenship should independence be gained in the future.[12]

III. Budget

17. Bermuda's fiscal year begins in April. In the 2007/08 budget statement, the Finance Minister said that the territorial Government's total combined current and capital account budget for 2007/08 was just over US$ 1 billion. The budget for the provision of the essential raft of public services such as education, health, housing, law enforcement, transport, waste management and other services was US$ 862 million. The capital expenditure programme has a proposed budget of US$ 141 million.[13]

18. Taking into account the value of receipts collected to date and the anticipated value of receipts to be collected, the territorial Government's revenues are ahead of the projections made in the 2006/07 budget. During the first two quarters of 2005/06, total revenue was US$ 448 million, somewhat above the original estimate. It is anticipated that there will be larger than expected fees to be collected from international business, customs duty and income tax. There is also the expectation of an increase in revenue from passenger tax arising from the greater number of cruise ships that will have visited the island during 2006/07. Likewise, the hotel occupancy tax is expected to rise due to the anticipation of increased amounts of air visitors to Bermuda.[6]

[8] 2006 Throne speech, www.bermudasun.bm; 3 November 2006.

[9] www.theroyalgazette.com, 30 November 2006.

[10] Information transmitted by the administering Power on 11 January 2007; and www.limeyinbermuda.com, 29 June 2006.

[11] Poll by Research Innovations of 403 people for *The Royal Gazette* (see www.theroyalgazette.com, 28 November 2006).

[12] www.theroyalgazette.com, 29 November 2006.

[13] Budget statement, 2007/08, www.gov.bm, 16 February 2007; and www.bermudasun.org, 16 February 2007.

19. On the expenditure side, the territorial Government anticipates that current expenditure will be somewhat larger than anticipated. Projected current expenditure of US$ 806.1 million may increase to approximately US$ 811 million due to supplementary budget requests. Furthermore, the Government anticipates that capital expenditure will be less than the US$ 126 million that was estimated in the budget due to delays in some capital projects. With the expected increase in revenue along with the lower capital spending figures, the territorial Government's borrowing requirement in 2006/07 is estimated to decrease to approximately US$ 46.3 million from the original estimate of roughly US$ 97 million.[6]

IV. Economic conditions

A. General

20. The official currency of Bermuda is the Bermuda dollar. On a one-to-one basis, the Bermuda dollar is pegged to the United States dollar.[14] Bermuda's gross domestic product was estimated at US$ 4,680 million (2006) and the per capita gross domestic product at US$ 76,400 (2005). For 2007/08, Bermuda's gross domestic product growth is forecast to exceed the target range of 3.0 to 3.25 per cent, with inflation tracking around a core rate of 3 per cent if oil prices evolve as anticipated.[15] A review of some of the key economic indicators in Bermuda's economy such as visitor arrivals and spending, international business developments, consumer spending, inflation and balance of payments suggested that forecast targets for 2006/07 would likely be achieved.[6]

21. According to the administering Power, the territorial Government continued to receive positive reports from external credit rating agencies on its management of the economy. The most recent of these agencies was Fitch Ratings in August 2006. Fitch Ratings upgraded Bermuda's long-term foreign currency issuer default rating to "AA+" from "AA". The country ceiling has also been raised to "AAA" from "AA+". The report confirmed Bermuda's strengths as having a mature political system, stable macroeconomic environment and limited public debt, high per capita income and a dynamic international business community. Also noted in the report was the fact that Bermuda was a small open economy that was vulnerable to external shocks and susceptible to international regulatory pressures.[6]

22. Moreover, in his 2007/08 budget statement the Finance Minister stated that the territorial Government had consistently received excellent reviews from the major credit rating agencies on its debt management performance and its record of overall economic management.[13]

23. For the 10-month period ending October 2006, total consumer spending in retail outlets increased by 3.3 per cent, or US$ 18.6 million, to a total of nearly US$ 588 million. Of that, approximately US$ 538 million was spent locally, while US$ 50 million was spent overseas. The rate of inflation in October 2006 stood at 2.7 per cent compared to the same period in the previous year. Although the rate in January 2006 was 2.5 per cent, it climbed to its highest level of 3.7 per cent in June

[14] www.bermudasun.org, 27 February 2007; and www.eiu.com, 1 January 2007.

[15] Budget statement, 2007/08, www.gov.bm, 16 February 2007; www.bermudasun.org, 16 February 2007; and en.wikipedia.org/wiki/Bermuda.

before steadily decreasing to the October value.[6] During the course of the year, the rate held steady at 3.1 per cent.[13] The greatest contributions to the level of inflation were generated by higher electricity costs in the fuel and power sector and increased medical care costs in the health and personal care sector.[6]

24. The external sector of the economy has produced positive results. Bermuda's balance of payments in the first three quarters of 2006 recorded a surplus on the current account of US$ 745 million compared with a surplus of US$ 391 million in the first three quarters of 2005. This represents a gain of 90.5 per cent. Payments increased from US$ 1,594 million in the first nine months of 2005 to US$ 1,913 million in the corresponding months of 2006, resulting in an increase of 20.0 per cent. Receipts rose from US$ 1,987 million in the first nine months of 2005 to US$ 2,658 million in the first nine months of 2006, which represents an increase of 33.8 per cent.[6] Given the continued strength of the international business sector and the positive balance of payments figures, according to the administering Power, the economy was expected to remain vibrant for the foreseeable future.[6]

B. Financial services

25. Bermuda is one of the world's leading offshore financial and business centres and is among the major jurisdictions worldwide in large-scale insurance and reinsurance. There is no central bank in the Territory. The Bermuda Monetary Authority is the regulatory authority for banks and trust companies.

26. According to the administering Power, over the first three quarters of 2006, 749 new international companies and partnerships were registered in Bermuda. The 5.4 per cent increase over the same period in the previous year in the total number of companies on the register at the end of the third quarter illustrates that the Territory's reputation as an exemplary offshore jurisdiction remains intact. Bermuda's reputation was built in part on providing a stable economic business environment, having experienced management and underwriting staff, a history of timely payment of claims and a highly successful and adaptable regulatory framework. These characteristics continue to attract reputable businesses to the island. This sector of the economy continues to provide the second largest number of jobs and substantial levels of revenue to the Government of Bermuda. Their presence also has a positive influence on Bermuda's foreign exchange earnings.[6]

C. Tourism

27. Against the previously reported backdrop that tourist spending in Bermuda had decreased by about 25 per cent over the past five years,[3] the 2007/08 budget statement indicated that international business and tourism had posted strong results, with the latter posting an overall increase of 23 per cent in total visitor arrivals.[16]

28. A global forum of the world's top 100 tourism business leaders predicted that demand created by Bermuda's tourism industry was set to double by 2016 to

[16] See A/AC.109/2006/6, para. 21; budget statement, 2007/08, www.gov.bm, 16 February 2007; and www.bermudasun.org, 16 February 2007.

generate US$ 2 billion in business. The number of jobs in the travel and tourism economy would increase from 7,000 in 2006 to 10,000 in 2016.[17]

29. Tourist arrivals grew by 23 per cent in 2006, giving rise to an increase in visitor spending on the island.[18]

30. In 2005, a total of 247,259 cruise ship visitors arrived in Bermuda, contributing US$ 50.3 million to the economy. In addition, cruise lines paid approximately US$ 12 million to the Government for passenger and cabin taxes. In total, it is estimated that cruise passenger, crew and cruise lines contribute in excess of US$ 70 million annually to Bermuda's economy.[19]

31. For 2007/08, US$ 20 million has been allocated for a second cruise ship pier at the Royal Naval Dockyard. The new dock will be able to accommodate the larger vessels that have become the standard in the cruise industry.[18]

32. At the same time, according to global financial analysts Standard and Poor's the Territory is coming under social pressure because of the limited opportunities for locals in the hospitality sector. Although the latest tourism figures pointed to an upturn in arrivals, Standard and Poor's findings were related to the longer term.[20]

D. Construction

33. Bermuda's construction sector remained robust in 2006, was one of the fastest-growing sectors of the economy, with an expansion of 5 per cent in total jobs, which pushed employment in the sector to 3,646.[18] Employment in the sector rose by 9 per cent in 2004, and now accounts for 8.4 per cent of employment, compared with only 2.7 per cent in manufacturing. Commercial and high-end residential properties and office buildings in the capital, Hamilton, are the main drivers of construction activity.[3]

34. In 2005, output in the construction industry grew by 21.3 per cent, fuelled by demand for commercial office space from the financial and international business sectors. Demand for construction services was also vibrant in the hotel industry for both fractional hotel units such as condominium complexes and standard hotel structures. Steady building development of education facilities in both the private and public sector also contributed to the buoyant construction activity in 2005.[6]

35. The Ministry of Public Safety and Housing has a budget of approximately US$ 120 million for 2007/08. No new projects have been added. According to the administering Power, to address the issue of homelessness, the territorial Government has launched a campaign of purchasing and renovating old properties to return them to suitable use; introduced "geared to income" rental housing; and promoted "life interest" sales of homes at discounted prices.[6]

36. There continues to be a clear lack of affordable housing for less well-off Bermudians. In November 2006, 286 units were under contract with more planned. The Government will work with the private sector to generate progressive ways to

[17] www.theroyalgazette.com, 27 June 2006.

[18] Budget statement, 2007/08, www.gov.bm, 16 February 2007.

[19] www.eiu.com, 1 January 2007; and information transmitted by the administering Power on 11 January 2007.

[20] http://www.theroyalgazette.com, 22 February 2007.

finance new homes and encourage Bermudian landlords to get abandoned houses and empty apartments back into liveable condition and on the market for sale or rent. In addition to tackling the problems of building and financing new affordable housing, the territorial Government will assemble the best legal and financial minds to determine how to renovate derelict homes for rent or ownership by deserving families.[8]

E. Transport and communications

37. Bermuda has very high standard transport and telecommunications sectors. There is a network of about 225 kilometres of paved public roads and 400 kilometres of private roads (see also A/AC.109/2006/6, para. 25). Bermuda also has one of the highest road traffic densities in the world, with approximately 100 vehicles per kilometre of paved road.[21]

38. In 2005/06 vehicle registration and licensing generated US$ 25.1 million in revenues, a major source of revenue for the territorial Government. Restrictions on car ownership to one per household, coupled with a policy of allowing no rental cars, have resulted in the development of an excellent and well-utilized group transportation system. Work on the Hamilton Bus Terminal was completed in early 2006.[6]

39. In November 2006, the Governor stated that the territorial Government would limit the increase of cars on the island and explore alternative means of transport: increased buses and minibuses, expanded public transport routes, car pooling schemes, car usage schemes, water taxis and infrastructures that were more walker-friendly.[8]

40. According to the administering Power, the development of waterborne transport was an important element in the continued economic development of Bermuda. In 2006, a ferry boat began to provide commuter service from St. George's to Hamilton. Another ferry has been scheduled for delivery in 2007. These state-of-the-art boats have been used to provide service from ferry docks, where parking, shelter and other amenities have been provided to commuters. Ferry usage has quadrupled since ferry improvements were implemented in early 2002 at a cost of US$ 26 million.[6] Furthermore, the 2007/08 budget statement indicated that the tour boat operators would receive various forms of relief, including duty-free fuel and a reduced rate on spare parts.[13]

41. In terms of administrative arrangements, the Territory's Ministry of Tourism and Transport, consisting of eight departments, is responsible for land, sea and air transportation, including public bus and ferry service, private transportation oversight (public service and community service vehicles), marine navigation, air operations, motor vehicle licensing and registration and civil aviation and maritime administration. The Ministry is also responsible for the Department of Tourism.[6]

42. Bermuda has its own air and ship regulatory agencies. Both the Department of Civil Aviation and the Department of Maritime Administration maintain registries,

[21] The Search for Clean Air; 2004 annual report of the Bermuda Biological Station for Research (www.bbsr.edu/pubs/ar04/ar04.html).

and are considered to be as stringent as comparable agencies in the United Kingdom and the United States.[6]

43. The Bermuda International Airport has undergone significant improvements since 2000. There are numerous regular flights between Bermuda and the United States, Canada and the United Kingdom. The work on the runways and aprons at the Airport will continue throughout 2007/08.[13] A United States-based airline intends to offer daily flights between Boston and Bermuda, and another will commence daily flights between New York City and the Territory. A United Kingdom-based "budget airline" requested authorization from the Air Transport Licensing Board to begin twice weekly flights between London's Gatwick Airport and Bermuda from June 2007. The Premier considers these new services a boon to the Territory's tourism.[22]

44. With regard to telecommunications in Bermuda, the territorial Government is undertaking a process of regulatory reform as part of an initiative to bring about further liberalization of the sector. According to the administering Power, a series of industry consultation initiatives were held between October 2005 and September 2006, including an industry round table, a formal consultation paper, meetings with industry players, market research and an industry workshop. A framework for a new regulatory structure has been developed. This involves the promulgation of new regulations that will establish a new independent regulatory authority responsible for licensing, rules, oversight monitoring and enforcement.[6]

45. Furthermore, as of December 2006, the Outer Space Act 1986 has been extended to Bermuda by the United Kingdom through the Outer Space Act 1986 (Bermuda) Order 2006. This is expected to facilitate new legislation, such as the draft satellite network and coordination regulations, to allow Bermuda licensing activities concerning outer space. Moreover, from an economic point of view, this would allow for the utilization of the orbital slots allocated to Bermuda by the International Telecommunications Union. It is expected that the regulations will be adopted during 2007. In addition, the Territory is taking steps to elaborate a framework for the establishment of a satellite earth station on Bermuda.[6]

V. Social conditions

A. General

46. Various socio-economic inequalities continue to exist in Bermuda. According to the administering Power, the Territory continues to address the issue of racial equality through the publication of statistics on workforce demographics, education and training and new proposals for legislation, addressed below.[6]

47. The territorial Government intends to implement new programmes to address housing, education, health care, and quality of life issues of the Territory's youth and elderly. Programmes to address alcohol and drug abuse are being crafted. The territorial Government also intends to address crime in a significant way and to institute innovative race relations programmes.

48. The territorial Government has established a Ministry for Social Rehabilitation to focus on implementing solutions to the social challenges that exist within the

[22] www.berbudasan.bm, 2 March 2007; and bbc.co.uk/caribbean, 6 March 2007.

community. In this context, the cross ministry initiative team provides immediate intervention and access to treatment for families. The Team assists families to improve their level of functioning in their environment with sustainable skills, in particular to maintain adequate accommodation.[6]

49. The needs of the elderly will form a major component of public policy in terms of the provision of public and private care services, given Bermuda's evolving demographic profile of fewer children, more elderly and an older workforce.[6] In 2007/08, the territorial Government intends to increase pension benefits in the Contributory Pension Fund by 4.5 per cent and prescription drug benefits for seniors would get a similar increase, raising the benefits to US$ 1,200 per year. Benefits for war veterans will be increased to an appreciable extent; specifically, medical, dental and pension benefits will be enhanced, with the pension benefit being doubled, from US$ 400 to US$ 800 per month.[23]

B. Labour

50. In 2005, a total of 38,947 job positions were filled in the Bermuda workforce, compared with 38,363 in 2004. This represented an increase of roughly 2 per cent, or 584 jobs.[24] The median employment earnings of all workers reached US$ 48,183, based on a weekly average of 33.2 hours worked.[6]

51. In 2005, jobs in the international business sector surpassed the public administration sector, making it the largest employer, with 4,213 filled positions. The growing influence of international business on the labour force also had a spillover effect on the level of employment in the construction, hotel, business services and financial intermediation sectors. Employment in the hotel industry climbed by 3 per cent, to 3,231 jobs, while the construction industry registered an 8 per cent rise in positions filled.[19]

52. In 2006, one third of the workforce was expatriate workers.[25] In 2007/08 the territorial Government intends to focus on achieving a flexible and responsive labour market that has the necessary incentives to encourage adequate training and development opportunities for the local workforce.[13] For instance, to enhance training and employment opportunities for Bermudians, the Government will require employers in some job categories to hire a minimum number of trainees or apprentices in order for the employers to qualify for work permits.[8]

53. With regard to work permits, the territorial Government recognized that a balance must be struck between the legitimate needs and expectations of Bermudians and the current and emerging needs of the business community. There were persons in the community, employers in particular, who believed that the Government's policy with respect to term limits for work permits was likely to have a negative impact on Bermuda's business community. The current policy, which took effect in 2001, stipulates that in most cases there will be a work permit term of six years, with the first term ending in 2007.[6]

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[23] www.bermudasun.org, 16 February 2007.

[24] Budget statement, 2007/08, www.gov.bm, 16 February 2007; and information transmitted by the administering Power on 11 January 2007.

[25] www.caribbeannetnews.com, 30 January 2007.

54. The Permanent Secretary of the Bermuda Ministry of Labour and Immigration stated that a rollover policy for expatriate workers would become effective in April 2007. The term limit was six years, at which point the guest worker must leave the Territory for two years before taking up residency again. The policy was to control the long-term growth of the population, which has been growing since the early 1970s when the Territory's economy started to boom.[25]

55. According to the administering Power, surveys have shown that many among the black population believe they suffer racial discrimination in the workplace, particularly in senior management roles in the international business sector, which is dominated by white overseas workers. Regulations requiring every company with 10 employees or more to present detailed demographics on its racial make-up, including information on hiring, firing, benefits and promotions, are a central part of the social policies of the current Government.[6]

56. The Annual Review of the Workforce Survey, which is undertaken and published annually by the Commission for Unity and Racial Equality, continues to show that the representation of the black Bermudian workforce remains significantly skewed. Blacks represent 55 per cent of the workforce and of the overall population of Bermuda, but continue to be underrepresented in the senior/executive and mid-management positions and income levels and over-represented in the non-professional employment levels.[6]

57. The territorial Government's initiatives addressing race relations are set out in paragraphs 68 and 69 below.

C. Education

58. Education in Bermuda is compulsory for all children from 5 to 16 years of age and is free in government schools. There are also private schools. The literacy rate in the Territory is considered high: 98 per cent of males and 99 per cent of females 15 years of age and over can read and write. The public school system includes 2 senior secondary schools, 5 middle schools, 18 primary schools, 12 preschools, and 2 special schools. High school graduates are prepared for further studies at the Bermuda College or at institutions abroad, mainly in the United States, Canada and the United Kingdom. For 2007/08, the Ministry of Education, Sports and Recreation is provided with a budget of US$ 152 million.[18]

59. The United Kingdom announced that, beginning in 2007, citizens from the Overseas Territories would benefit from the home student fee rate at English universities.[26]

60. As previously reported (see A/AC.109/2006/6, para. 34), the 2000 census revealed a serious disparity between the proportion of white students going to private schools (three quarters) and black students enrolled in the government educational system. The declining quality of education at Bermuda's public schools is a frequent issue in the media as only about half of the students attending public schools graduated from high school.[27]

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[26] www.fco.gov.uk, 23 November 2006, Lord Triesman, Oversees Territories Minister, eighth annual meeting of the Overseas Territories Consultative Council on 21 and 22 November.

[27] *The Royal Gazette*, 25 November 2005.

61. A number of initiatives were carried out during 2005 to enhance the quality of education in Bermuda's public school system. According to the administering Power, at the upper primary and middle levels teachers participated in a writers workshop with Columbia University in the United States; all primary schools were provided with levelled classroom texts, some 200 to 300 new books for students to read independently; and over 1,100 computers were installed in primary and middle schools. Moreover, an intensive four-week programme entitled "The Financial Services Academy" was piloted to prepare senior school graduates for entry-level positions in Bermuda's ever-expanding financial services industry.[6]

62. In November 2006, the territorial Government indicated that it would renew its focus on the very basics of education — reading, writing, mathematics and critical thinking. Technical courses at the secondary school level would be expanded, agriculture and outreach programmes would be implemented and job skills training programmes and a 14-week paid internship programme for young people would be introduced.[8]

63. Moreover, according to the administering Power, the Government currently supports the Bermuda Regiment/Bermuda College soldiers programme, which provides free tuition at Bermuda College for soldiers in the Bermuda Regiment. This programme will be expanded in 2007 to offer a general equivalency diploma/high school diploma for soldiers who have not completed secondary school.[6]

D. Health

64. Population projections confirm that two major demographic phenomena will dominate Bermuda in the future years: an ageing population and a low fertility level. According to the administering Power, the age structure of the population is as follows: 20 per cent of the inhabitants are between birth and age 14, 70 per cent are between the ages of 15 and 64 and 10 per cent are over 65. Life expectancy at birth is 80 years for women and 75 years for men. However, as previously reported, life expectancy among blacks in Bermuda is nearly four years shorter than for whites.[28] Population projections indicate that the annual growth rate will be less than one tenth of 1 per cent by the year 2015 and negative by the year 2030.[6]

65. As previously reported (see A/AC.109/2006/6, para. 36), there is no comprehensive publicly funded health insurance, although hospitalization insurance is mandatory for all employed or self-employed persons. Nonetheless, insurance coverage is nearly universal, and some persons are insured by more than one provider. The Territory's two hospitals, the King Edward VII Memorial Hospital and the Mid-Atlantic Wellness Institute, are operated by the Bermuda Hospitals Board, a statutory body financed by the Government.[29]

66. For 2007/08, the Ministry of Health is provided with a budget of US$ 139 million. The territorial Government, along with the Bermuda Hospitals Board, will advance the estate master plan for the development of new health-care facilities. A

[28] "Bermuda Health Systems and Services Profile", report prepared for the Ministry of Health and Family Services of Bermuda by Dr. Marcelo Ramella, April 2005.

[29] Pan American Health Organization, Bermuda country health profile, www.paho.org/english/sha/prfiber.htm.

critical step in this process is the assessment of clinical needs in Bermuda and the determination of services to be provided by an acute care hospital in Bermuda. This effort would shape the type of hospital that the Government builds and the type of facilities it would house to provide for health care. As a matter of high priority, the Ministry of Health will launch a national health promotion strategy in 2007/08 to develop a healthier community.[18]

67. Pursuant to the Health Council Act, 2004, the Council became operational on 1 January 2006, indicating, according to the administering Power, the Government's intent to restructure the health-care system. For instance, during the latter part of 2006 the national health promotion strategy was launched around three themes: healthy people, healthy families and healthy communities. The strategy is only one step towards improvement in community health and provides a call to action for all stakeholders and partners who can affect change in public health for the people of Bermuda. Other activities implemented to advance the general health of Bermuda's population were the launch of the persons with disabilities board. The primary responsibility of this board will be to review the national policy for persons with disabilities. In support of the growing elderly population, several meetings and monthly educational forums for seniors were held to provide information and guidance on travel, nutrition, wills and estate planning.[6]

E. Human rights and related issues

68. As previously reported, the Bermuda Independence Commission noted in August 2005 that the racial question has been "an ever-present, although seldom acknowledged feature of the Bermudian social, economic and political landscape". In the speech delivered at the opening of parliament in 2006, the territorial Government maintained that the people of Bermuda must talk openly and frankly about race and race relations and the debilitating effects of racism and racist practices of the past and present, requiring an open, honest, frank and sustained discussion on race. The Government would create programmes to empower the disadvantaged to give them a chance for a fair fight for their futures — a fair fight for jobs, businesses, land and opportunity.[8] Speaking at the second African Diaspora Heritage Trail Conference in Bermuda in September 2006, the Premier said that in 2006 the Government was still forced to defend policies that were aimed at empowering a majority of the population, and made to consult with representatives of the minority to reverse years of economic injustice against the minority.[4]

69. According to the administering Power, a number of initiatives to address race relations were planned for 2007: (a) introduction of workforce empowerment legislation mandating employers to document the equality of opportunity, policy and strategy; (b) support to the joint industry taskforce established in 2006, to focus on workplace parity, the employment of black males, identifying entry-level jobs, industry specific training regimes, and apprenticeship schemes; and (c) elaboration of a national race relations strategy. The strategy would provide a process for dialogue, consultation and agreement on Bermuda's position on race and racism.[6]

F. Crime

70. In 2006, violent crime reached a seven-year high. A total of 2,079 crimes were reported in the areas of violence, theft, burglary and taking a vehicle without consent. During July and September 2006, the reported crime figure was higher than in any quarter since 1999.[30]

71. In November 2006, the territorial Government stated that it would assess the entire criminal justice system — from infraction to incarceration and everything in between. Real change would occur to improve laws, prosecutorial prowess, customs search procedures and the correctional system. Bermuda had to increase the fairness of the criminal justice system, while starkly reducing the rate of recidivism so that those who had earned a second chance was given a fair opportunity to use it.[8]

72. In the budget statement for 2007/08, the territorial Government stated that the Bermuda Police Service would continue to be engaged in Community policing initiatives. The aim of the programme was to use a community-based partnership approach to reduce the number of incidents that required intervention by the Bermuda Police Service and/or other agencies within the various neighbourhoods throughout the Territory. This plan would be especially useful in neighbourhoods beset with crime and violence.[18]

73. Bermuda has a police force of approximately 450 full-time officers and several hundred part-time police reserves. According to the administering Power, the Commissioner of Police was addressing manpower shortages and expected the Bermuda Police Service to increase the number of police officers during the first quarter of 2007. Fourteen new local recruits were enrolled at the training school facility for a five-week localization course and were to be deployed in operational policing duties. Twelve additional officers were scheduled to arrive in early 2007. Additional overseas recruitment would be conducted once the results of the local recruitment were known.[6]

74. An anti-gang initiative was implemented during 2006, the aims of which were to obtain a full understanding of the extent of the gang problem in Bermuda; to identify what causes people to engage in gang and other antisocial activities; and to implement solutions that would discourage people from involvement in gangs, crime and other related behaviour.[6]

75. On the issue of illegal residency, like many attractive jurisdictions, Bermuda experiences the problem of persons residing illegally in the Territory, most through overstaying. According to the administering Power, the Compliance Section of the Department of Immigration works closely with the Bermuda Police Service in an effort to apprehend such individuals. When these persons are found, they are deported from Bermuda and their names are placed on Bermuda's "stop list". Employers risk punishment if they are found to be employing people without work permits or if they allow employees to engage in work that is outside the parameters of their work permits. In addition to the penalties available in law, persons who employ individuals who are in Bermuda illegally risk being denied the right to hold future work permits or of having existing work permits revoked.[6]

[30] www.theroyalgazette.com, 10 November 2006.

76. In terms of legislative developments on the protection of children, according to the administering Power, the Criminal Code Amendment (No. 2) Act 2006 was submitted to the House of Assembly in December 2006 to protect children from being sexually exploited or being preyed upon for sexual purposes by way of, but not limited to, the Internet environment. The Act will address such areas as making, possessing and distributing child abusive material or child pornography; showing child abusive material or child pornography to a child; Internet luring; and the use of children in the production of child abusive material or child pornography. The Act is expected to come into force during 2007.[6]

77. Information on the applicability of the United Nations Convention against Corruption can be found in paragraph 87 below.

G. Environment

78. Under the budget statement for 2007/08, the Ministry of the Environment, Telecommunications and E-Commerce would be provided with a budget of US$ 38 million. For instance, the territorial Government plans to introduce an agricultural and educational outreach programme to link senior secondary school students with established local farms so as to expose them to traditional farming practices.[18]

79. In the context of the 2004 sustainable development project and the 2005 public perception study on sustainable development, in January 2006 a Sustainable Development Unit was formed in the Cabinet Office to move the project forward and to mainstream sustainable development in the civil service. According to the administering Power, the Unit put a draft sustainable development strategy and implementation plan before the Cabinet and organized public consultations on the draft strategy from July to October 2006. The draft strategy highlighted six priority areas for the upcoming years: sustainable consumption patterns; open space protection; housing and affordable housing; workforce development and entrepreneurship; systematization of social service provisions; and government delivery and accountability.[6]

80. Following the release of the White Paper on the marine environment and fishing industry in Bermuda in 2005, fisheries-related regulations were reviewed and legislative changes recommended. According to the administering Power, the Fisheries Amendment Act 2006 established a Commercial Fisheries Council to issue commercial and fishing licences, and strengthened fines for offences. The Fisheries Amendment Act (No. 2) 2006 provides the Minister responsible for the Environment with the authority to declare fish aggregation areas and to prohibit all fishing in such areas for a period of up to 90 days.

81. The Endangered Animals and Plants Act 2006, which replaced the Endangered Animals and Plants Act 1976, enables Bermuda to comply with the updated Convention on International Trade in Endangered Species of Wild Flora and Fauna, and provides for increased enforcement of the Convention, consistent with the decision taken at the thirteenth Conference of the Parties to the Convention in Bangkok in October 2004.

82. The Clean Air Amendment Regulations 2006 enables the Government of Bermuda to ensure that sulphur emissions to the air from fuel sources are effectively controlled. The Act defines "prohibited fuel" as fuel that has a sulphur content

greater than 2.0 per cent by weight, and "approved fuel" as fuel that has a sulphur content equal to or less than 2.0 per cent by weight.

83. The draft Cooper's Island land use and management proposal plan introduced in the Legislature in May 2005 has moved to the implementation phase, initially involving the restoration of a one acre of critically endangered salt water marsh. Cooper's Island represents a unique opportunity to retain one of Bermuda's last remaining open spaces as a green lung. The 77 acre area is situated at the eastern end of the island, and is isolated enough to enable the successful restoration and protection of Bermuda's native and endemic plant and animal life, including for educational purposes. In 2006 the working management plan was revised with input from public consultation.[6]

VI. Military issues

84. Bermuda maintains a defence regiment of some 700 soldiers. The adult male population is subject to conscription, involving three years' part-time liability for weekly drills and an annual camp.[6]

85. Information on the territorial Government's support to war veterans and the Bermuda Regiment/Bermuda College soldiers programme can be found in paragraphs 49 and 63 above.

VII. Relations with international organizations and partners

86. Bermuda is an associate member of the Caribbean Community and Common Market. According to the administering Power, Bermuda participates in educational, cultural and sporting events.[6]

87. At the eighth Overseas Territories Consultative Council meeting, held in London on 21 and 22 November 2006, the United Kingdom and the Overseas Territories represented at the meeting, including Bermuda, agreed in principle that the United Nations Convention against Corruption would be extended to the Overseas Territories at the earliest opportunity.[31]

88. Information on United Nations system activities involving Bermuda, including on the applicability of international labour conventions and international labour recommendations, is contained in document E/2006/47.

VIII. Future status of the Territory

A. Position of the territorial Government

89. Developments regarding discussions on the future status of Bermuda are reflected in section II above.

[31] http://www.fco.gov.uk, 23 November 2006.

B. Position of the administering Power

90. In a statement made on 24 April 2006 while visiting the Turks and Caicos Islands, Lord Triesman, the Overseas Territories Minister, took stock of the relationship between the United Kingdom and the Overseas Territories seven years on from the 1999 White Paper,[32] and reiterated the approach of the United Kingdom as follows:

> As the White Paper made clear, the United Kingdom will always be ready to help any Territory become independent where this is an option and if that is the clear and settled will of the people. The United Kingdom has no desire for any Territory to remain British against its people's wishes. We have no continuing colonial objectives.
>
> However, if the people of a Territory wish to retain the British link, then the United Kingdom will continue to honour its responsibilities for it. But I am, and I should be, answerable to the United Kingdom Parliament for the Territories. As long as the United Kingdom retains those responsibilities, it needs to be in a position where it can discharge them properly. And that means that the United Kingdom needs to retain a sufficient level of powers to do this.
>
> In this process, the Governor, who also represents the Territory to the United Kingdom Government, has a vital role. He or she must ensure, in partnership with the territorial Government, that high standards are maintained in key areas such as the public service, the police, the judiciary, finance, aviation and maritime security — indeed security generally — and human rights, in the interests of the peoples of the Territory as a whole.
>
> In this context, it might be helpful if I set out the United Kingdom position on alternative forms of relationship, some of which I know have been discussed here in the Turks and Caicos Islands in recent weeks. General Assembly resolution 1541 (XV) set out some options for the relationship between administering Powers and the Territories, including independence, integration and free association. The United Kingdom did not vote in favour of that resolution, and does not regard itself as bound by it. Integration would mean the Turks and Caicos Islands or any of the other Territories becoming a full part of the United Kingdom, like the Isle of Wight. It would mean that the people of the Territory would have to pay United Kingdom taxes. And United Kingdom policy would apply in areas that have traditionally been the responsibility of the territory Government — for example education and health.
>
> I do not believe that this is an option that would find favour in the Territories. Nor does it in the United Kingdom. The option of free association is also unacceptable. As defined by the United Nations, it would mean the Territory drawing up its Constitution free from any outside involvement. The United Kingdom would retain all the responsibilities for the Territory, but would not be able to ensure that it had the powers to enable it to fulfil these responsibilities. Ministers answerable to Government in Westminster cannot,

[32] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", White Paper submitted to the House of Commons on 17 March 1999 by the United Kingdom Secretary of State for Foreign and Commonwealth Affairs (see A/AC.109/1999/1 and Corr.1, annex).

and should not, put themselves in that position. So our aim is to work for a relationship with the territorial Government which satisfies the needs of both sides.[33]

91. Moreover, in a statement before the Special Political and Decolonization Committee (Fourth Committee) on 5 October 2006, during the sixty-first session of the General Assembly, the representative of the United Kingdom said that the criteria used by the Special Committee in its deliberation on whether a Non-Self-Governing-Territory should be "de-listed" were outdated and failed to take account of the way that relationships between the United Kingdom and its Overseas Territories had been modernized, in a way that was acceptable to both parties.[34]

C. Action by the United Nations

92. On 14 December 2006, the General Assembly adopted, by a vote of 173 to none, with 4 abstentions, resolutions 61/128 A and B. Section III of resolution 61/128 B concerns Bermuda.

[33] "'A Successful Future' — Triesman speech, Turks and Caicos Islands", 24 April 2006, www.fco.gov.uk.

[34] Information transmitted by the administering Power, 15 January 2007; see also A/C.4/61/SR.5.

United Nations A/AC.109/2007/11

General Assembly

Distr.: General
27 March 2007

Original: English

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Tokelau

Working paper prepared by the Secretariat

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I. General

1. Tokelau,[1] a Non-Self-Governing Territory administered by New Zealand, consists of three small atolls in the South Pacific (Fakaofo, Nukunonu and Atafu), with a total area of approximately 12.2 km^2. Fakaofo is the southernmost atoll; Nukunonu is nearly 50 km away; and Atafu nearly 100 km from Nukunonu. Each atoll comprises strips of land no more than 200 m wide and never more than 5 m above sea level. Samoa, 480 km to the south, is the nearest sizeable neighbour and only port to the outside world.

2. Tokelauans are Polynesians with linguistic, family and cultural links with Samoa. The last five-yearly census, taken on 19 October 2006, recorded a de jure resident population of 1,466. This figure includes all usual residents present in Tokelau on census night (excluding visitors) plus those who usually reside in Tokelau but were overseas temporarily in Government employment or for educational and medical reasons, a frequent occurrence in the Territory. The 2001 census had recorded a population of 1,537, which included all those present in Tokelau on census night and those counted in Apia, Samoa. By atoll, the 2006 population was recorded as follows: Atafu, 524; Fakaofo, 483; and Nukunonu, 426. An additional 33 Tokelauan public servants, including their immediate families, were recorded in Apia, where the Tokelau Apia Liaison Office is located. The constraints of atoll life and limited opportunities have led some 12,000 Tokelauans to settle abroad, mainly in New Zealand and Samoa.

3. There has never been a New Zealand representative resident in the Territory. The New Zealand official who deals with Tokelau is the Administrator, appointed by the Minister for Foreign Affairs and Trade. In October 2006, David Payton was appointed as the new Administrator. Until June 2001, when responsibility for public services was transferred to the Territory, there was also a New Zealand-based Public Service Commissioner for Tokelau.

II. Constitutional and political developments

4. As reported in previous working papers on the question of Tokelau (see A/AC.109/2001/5, A/AC.109/2002/6, A/AC.109/2003/10, A/AC.109/2004/8 and A/AC.109/2005/3), the current process of constitutional development stems from the 1998 decision by the General Fono (the national representative body) to endorse a comprehensive report entitled "Modern House of Tokelau", which addressed the core issue for Tokelau in creating a constitutional framework: how to construct a governance and administrative system that suited a self-governing nation based on the atoll or village structure and traditional decision-making customs.

5. Regarding the legislative structure, in accordance with recommendations made in the 1998 Modern House report, a new electoral system was instituted for the General Fono in 1999. The issue of representation within the General Fono was reviewed again in October 2004, and decisions were made on a method of

[1] The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

appointment of the Chairperson of the General Fono and on the role and responsibilities of the six-person Council of Ongoing Government, which is in effect the executive Government during times when the General Fono is not in session. The Council consists of the three Faipule (the representative of each village) and the three Pulenuku (the mayor of each village).

6. Since November 2001, legislative seats in the General Fono have been proportional to the size of the population of each atoll. Replacing the former structure of 18 members (6 per atoll), the new General Fono has 23 members, giving Atafu eight delegates, Fakaofo eight and Nukunonu seven. The triennial elections for Faipule, Pulenuku and General Fono delegates were held in each village in January 2005. Each of the newly elected Faipule had previously served two or more terms. The position of Ulu-o-Tokelau, or Head of Government, rotates annually among the three Faipule. In February 2006, Kolouei O'Brien was installed as Ulu for the year. Kuresa Nasau succeeded Mr. O'Brien in February 2007.

7. The first discussions on a new framework of relationship between New Zealand and Tokelau, based on initial studies for a Tokelauan Constitution, funded by the United Nations Development Programme (UNDP) in the mid-1990s, were held in Wellington, in December 2002. Following further consultations, a Principles of Partnership statement was agreed upon by the June 2003 General Fono and subsequently approved by the New Zealand Government. The Partnership agreement with New Zealand provided the medium- to long-term context in which work could be carried forward on Tokelau's constitutional and other developments. The document addressed the management of the Partnership, self-determination for Tokelau, Tokelau's language and culture, New Zealand citizenship, shared values, economic and administrative assistance, coordination of services to Tokelau, defence and security, foreign affairs and the Tokelauan community in New Zealand. At the same time, the New Zealand Government approved a support scheme for Tokelau known as the administrative assistance scheme. The essence of the scheme was that all New Zealand Government agencies were formally instructed to consider providing assistance to Tokelau within their spheres of responsibility. Arrangements were made for the Tokelau Unit in Wellington to act as the liaison and coordination point for the scheme.

8. At its meeting in June 2003, the General Fono had also agreed that the three Village Councils should assume full responsibility for all the public services on their atolls and a target date of 30 June 2004 for the achievement of that objective was met. The decision stemmed from an earlier agreement on the approach known as the Modern House of Tokelau (see para. 4 above), whereby the traditional Council of Elders on each atoll should serve as the foundation for a future governance structure. Under that arrangement, the three Village Councils would delegate authority to the General Fono for those activities that need to be handled at the national level (for further details on the review process of Tokelau's public services prior to 30 June 2004, see A/AC.109/2005/3). The remaining aspect of the Modern House project, known as "Friends of Tokelau", that is, keeping Tokelau's communities in New Zealand and other interested parties informed of developments, is being handled by the Office of Ongoing Government of Tokelau in Apia and the new Special Relations Unit in Wellington. The Unit, which is responsible for New Zealand's relationship with Tokelau, is staffed by officers of both the Ministry of Foreign Affairs and the Agency for International Development and headed by the new Administrator, David Payton.

9. At its June 2003 meeting, the General Fono also took a formal decision, by consensus and with the support of all three Village Councils, to "endorse self-government in free association with New Zealand as the choice now to be actively explored with the New Zealand Government". In November of the same year, the General Fono adopted a paper recommended by its Special Constitutional Committee which brought together all the main elements expected to be in an eventual constitution. That followed an extensive process of consultation conducted by the Tokelau public service on all three atolls. The paper draws upon customary practice, the written rules of the General Fono and parts of New Zealand law.

10. Agreement was reached at the General Fono held in January 2004 on the steps to be taken to give effect to the decision of actively exploring the endorsement of self-government in free association with New Zealand. The steps included a series of discussions: with senior officials both in Wellington and in Apia, as mentioned above; during the Special Committee's Pacific regional seminar held in Papua New Guinea in May 2004; during consideration of the situation in Tokelau by the Special Committee in June 2004 and June 2005; at the General Fono and village deliberations; at several meetings in Tokelau and Samoa involving the Administrator; at meetings with Tokelau's constitutional adviser, Tony Angelo, and Tokelau's senior officials and political leadership; and at a number of meetings with Tokelau's overseas communities in New Zealand, Samoa, American Samoa, Hawaii and Australia.

11. In August 2004, the Prime Minister of New Zealand visited Tokelau, at which time she welcomed Tokelau's recent decisions on its future political status and assured it of New Zealand's ongoing friendship and support as it moved towards an act of self-determination.

12. The draft constitution was given further consideration at the October 2004 meetings of the Special Constitutional Committee and the General Fono, and was endorsed by the August 2005 General Fono as the basis for the proposed act of self-determination. The October 2004 General Fono also took a number of decisions on Tokelau's draft constitution and legislative framework. Agreement was also reached on law-making procedures, the role of the constitutional advisory body, Kau Hauatea, the judicial system and the newly established International Trust Fund.

13. At the invitation of the Prime Minister, the Council of Ongoing Government visited New Zealand in November 2004 for high-level discussions on Tokelau's further political evolution. The Council met with the Governor-General, the Prime Minister, the Minister for Foreign Affairs and Trade and the Leader of the Opposition. The Council also held a series of meetings with the main Tokelauan communities in New Zealand. The Council made another official visit to New Zealand in November 2005, again meeting with all the major Tokelauan communities.

14. At its August 2005 meeting, the General Fono approved the text of a draft treaty of free association between Tokelau and New Zealand as a basis for an act of self-determination. It also appointed a translation committee and a referendum commission. Subsequently, in November 2005, the General Fono approved the translations of the draft constitution and draft treaty, as well as of the draft referendum rules (including a closing date of 23 December 2005 for voter registration), and set the dates for the referendum from 11 to 15 February 2006. It agreed that an overall majority of two thirds of the valid votes cast would be

required for a change to Tokelau's status and decided that the voting should take place sequentially in Apia and on the three atolls.

15. On behalf of Tokelau and New Zealand, in November 2005 the New Zealand Government formally invited the United Nations to monitor the act of self-determination and indicated that the presence of representatives of the Special Committee on Decolonization would also be welcome.

16. The referendum to determine Tokelau's future status took place as planned, with voting in Apia on 11 February 2006 (for eligible Tokelauans based in Samoa), and in Atafu, Nukunonu and Fakaofo on 13, 14 and 15 February 2006, respectively.

17. Sixty per cent of registered Tokelauan voters voted in favour of self-government in free association with New Zealand. That percentage, however, was not sufficient to meet the required two-thirds majority. In numbers, a total of 584 voters (95 per cent of registered voters) turned out, with 349 voting in favour and 232 against. Three votes were declared invalid. The voting was conducted in the presence of a United Nations monitoring mission, which deemed the election process credible and reflecting the will of the people. Ambassador Robert Aisi of Papua New Guinea represented the Special Committee on Decolonization throughout the referendum process. He was accompanied by a representative of the Decolonization Unit of the Department of Political Affairs. Also present from the United Nations to formally monitor the elections were representatives of the Electoral Assistance Division, from both Headquarters and from Fiji.

18. Following the referendum, the Council of Ongoing Government and the New Zealand Government agreed to leave the referendum package on the table for future consideration. Following consultations between the Council of Ongoing Government, the three villages and the General Fono, in August 2006, the General Fono took a consensus decision to hold a second referendum on Tokelau's self-determination in November 2007. The proposed constitution and the draft treaty, commonly referred to as the self-determination package, will be the same and the legal threshold for the proposal to be accepted will remain at a two-thirds majority: 66 per cent plus one.

19. Tokelau has approached UNDP for assistance with funding and UNDP is actively raising funds for the undertaking.

III. External relations

20. As spelled out in paragraphs 9 and 10 of the Principles of Partnership statement, Tokelau, as a Non-Self-Governing Territory, currently has insufficient international legal personality to enter into formal international legal obligations in its own right. New Zealand is responsible for entering into any such obligations on Tokelau's behalf, after consulting with Tokelau as to its wishes. Tokelau participates in regional and international organizations in its own right to the extent that those organizations provide for such participation.

21. Tokelau is a member of the Forum Fisheries Agency, the South Pacific Community, the University of the South Pacific and the Pacific Regional Environment Programme. In October 2005, Tokelau was admitted as an Associate Member of the South Pacific Applied Geoscience Commission. Later that month, the Ulu of Tokelau attended the Pacific Islands Forum meeting, where Tokelau was

welcomed as an observer for the first time. It has since then been determined that Tokelau will remain an observer until such time as it exercises self-determination. At the Forum meeting and in the same vein, Pacific region members of the European Union, African, Caribbean and Pacific States development assistance group and the Pacific Islands Forum endorsed in principle an application for accession to the Cotonou Agreement by a self-governing Tokelau (in anticipation of a positive referendum outcome in 2006). It is understood that this application now awaits the outcome of the November 2007 referendum. Expressions of interest in establishing bilateral technical assistance programmes were received from a number of countries. Tokelau is also an Associate Member of the World Health Organization and of the United Nations Educational, Scientific and Cultural Organization.

22. In March 2003, the first formal visit to Tokelau by a Samoan Prime Minister took place and a memorandum of understanding was signed in which the Territory and Samoa agreed on an annual programme of activities in areas such as education, shipping and economic cooperation. A first round of talks was held with the Prime Minister in December 2004, as provided for in the memorandum of understanding.

23. Following a visit in April 2003 to Tokelau by the Director-General of the secretariat of the Pacific Community, it was agreed that a senior member of the secretariat would act as a focal point for Tokelau programme activities, focusing on community health, youth, women, fisheries and cultural development.

24. In November 2003, New Zealand and Tokelau entered into an agreement with France on the delimitation of the maritime boundaries between Wallis and Futuna and Tokelau. Negotiations are now under way with Kiribati, and preliminary discussions have been held with the Cook Islands and Samoa.

IV. Economic conditions

25. Traditional and communal values and practices play a key role in contributing to a state of general well-being and equity in the Territory, as evidenced by the redistribution principles of traditional wealth (the *inati* system) and the importance attached to upholding the concept of the family and/or the extended family. The tradition of *inati* requires the deposition of food and produce at a central location, which is then apportioned by the distributors on the basis of "share groups". The principle provides for a secure distribution system that caters to the needs of every member of the community, including the elderly, widows, single parents and children.

26. Major constraints on economic growth include natural disadvantages, such as the small size of Tokelau, isolation, the geographical dispersion of the atolls, limited and poor natural resources and proneness to natural disasters (such as cyclones). Tokelau's economic stability has so far been made possible by the high levels of assistance provided by the administering Power.

27. Tokelau has a unique combination of traditional and modern income resource streams. With Government funding, many villagers are paid regularly for various village duties ranging from construction and boat loading to assistance to the General Fono and other public entities. The devolution of public services to the atolls has also increased the number of wage employees and needs for specialized skill development or qualifications. The past few years have seen a rise in small

enterprises and in interest in generating cash income. However, artisans prefer to keep handicrafts as a cultural practice rather than use them for commercial gain. Much investment has been made in expanding fisheries commercially over the past decade, but maintaining artisanal fisheries at a subsistence level remains the preferred approach. In addition, lack of reliable transport makes competition with Samoan fisheries, which are closer to markets, virtually impossible.

28. Migration of skilled persons is an ongoing threat to the sustainability of any endeavour. Unlike other islands in free association with New Zealand with rapidly dwindling numbers in both Niue and the Cook Islands, Tokelau has been able to maintain a steady population. Although the recent census indicated a decrease in numbers, most people leave Tokelau only temporarily, mainly for education, schools currently provide up to year 11 only; health, hospitals are currently only equipped for general operations; and employment reasons. Tokelau is now working towards building new schools and hospitals, getting a new ship and providing services in Tokelau to a standard that would be satisfactory to any citizen of New Zealand.

A. Economic developments

29. During the visit by the Prime Minister of New Zealand (see para. 11), a multi-year economic support agreement was signed between the New Zealand Agency for International Development and Tokelau. Additional funding was announced to improve shipping services while a study of long-term shipping options is being carried out jointly by Tokelau and New Zealand. The Prime Minister also pledged New Zealand's support for the Tokelau International Trust Fund. The Fund, formally established in November 2004, is designed to provide intergenerational security and an independent source of income to Tokelau. With contributions from Tokelau, New Zealand, Australia, and the United Kingdom of Great Britain and Northern Ireland, the Fund now stands at 27 million New Zealand dollars ($NZ).[2]

30. Tokelau's overall budget for 2004/05 was set at $NZ 10,500,000. The full budget is now under Tokelau's control (previously it controlled the budgetary support element but not the project assistance funds), with New Zealand continuing to be the primary source of economic support. During the financial year, New Zealand provided additional grants for special purposes: to improve shipping services ($NZ 400,000); a cyclone recovery programme ($NZ 900,000); to complete the national power supply programme ($NZ 1 million); and to support the political evolution process ($NZ 152,000).

31. Work is being finalized on a comprehensive review of Tokelau's development assistance needs, in preparation for upcoming discussions on economic support levels for the 2007-2010 period. Work will focus on the devolution arrangements and any capability gaps in public services. As part of the review, which will be conducted jointly by Tokelau and New Zealand, a strategic plan is expected to be worked out to address key development objectives and priorities over the next triennium. In addition, UNDP began discussions on its next programming cycle in late 2006. The comprehensive review will provide a valuable guide to programmes that could be supported by UNDP from 2008 onwards.

[2] As at 5 February 2007, the New Zealand dollar was equivalent to 0.68 United States dollars.

32. In late November 2006, the Territory hosted 10 regional and international organizations. The visit was a first whereby United Nations organizations, including UNDP, the United Nations Development Fund for Women, the United Nations Children's Fund, the World Health Organization (WHO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and regional bodies such as the Secretariat of the Pacific Community, the Secretariat of the Pacific Regional Environment Programme, the Secretariat for the Pacific Applied Geoscience Commission, the South Pacific Board of Educational Assessment, the University of the South Pacific (USP) and the USP Pride Project all worked together to develop a joint mission report and strategy for Tokelau. It is envisaged that a draft strategy for the work of agencies active in Tokelau, covering the period from 2007 to 2010, prepared jointly by the United Nations and the Council of Regional Organizations in the Pacific, will be released sometime in the early part of 2007 for initial discussion. It is hoped that the strategy will avoid a piecemeal approach to development programmes.

33. In the previous country programme cycle, from 1998 to 2002, UNDP contributed from its office in Apia to the strengthening of the Territory's social and economic capabilities as it moved towards greater self-government and self-reliance. Some of the milestones in the UNDP relationship with Tokelau have been the first telephone connection in the Territory in 1997, building sea walls after a cyclone and its early and ongoing support for the Modern House of Tokelau project.

34. In August 2002, when the UNDP Resident Representative accompanied the United Nations Visiting Mission to Tokelau, she introduced the new Tokelau/UNDP country programme for 2003-2007, which aimed to invest over US$ 700,000 per year over the five-year period, focusing again on support for the Modern House project, with grant assistance in the areas of governance, sustainable human development, disaster risk reduction, energy and environment. Under governance, support will continue for capacity-building and training in the public sector and the promotion of gender issues in development. The focus will be on support for the decolonization process and the referendum. Under sustainable human development, UNDP will continue its support for strengthening social and economic systems, which assisted in the establishment of Tokelau's first Department of Economic Development and Environment, support development projects, such as village microenterprise projects for women and skills training for youth, a comprehensive assessment of the status of information and communications technology on the atolls and environmental management projects, including reducing reliance on fossil fuels by building solar energy units and improving fuel storage and protection against oil spills (see also para. 42 below).

35. While Tokelau does not qualify for funding under the Global Environment Facility (GEF) owing to its non-self-governing status, UNDP has raised special resources so that Tokelau may participate in selected GEF regional programmes, in particular the oceanic fisheries and regional energy programmes. UNDP has also expedited the participation of Tokelau in the GEF Small Grants Programme, which began in 2006. The representative also noted the willingness of UNDP to assist the Territory should a study to review the options for its future self-determination be requested by Tokelau.

36. Work continued during 2005 on Tokelau's economic development plan. The position of Director of Economic Development and Environment was filled by a

contract officer in January 2005 and is now being advertised as a permanent appointment. The Council of Ongoing Government is giving high priority to the plan. Discussions were initiated with a number of potential development partners and groupings in 2005. The Department is currently planning a Tokelau economic summit, to take place in April and May of 2007, in the hope of bringing together key stakeholders who would support economic development initiatives at the village level.

37. Regarding commercial fisheries, under the 1987 Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America, Tokelau earns fees paid by United States vessels fishing in its exclusive economic zone. Tokelau earned $NZ 303,173 in fishing fees in 2005 and 2006.

38. In February 2005, Tokelau was struck by a force 5 cyclone (cyclone Percy), which did considerable damage to Tokelau's infrastructure and caused major damage to the villages of Nukunonu and Fakaofo. In addition to the assistance provided by New Zealand, Tokelau received generous offers of help from UNDP and the Governments of Australia and Samoa. The United Nations Office for the Coordination of Humanitarian Affairs fielded a Disaster Assessment Coordination team within one week of the disaster at the request of the United Nations Resident Coordinator based in Apia. The team conducted an assessment of the damage caused by the cyclone and identified areas that required priority assistance from the United Nations and the international community. A number of non-governmental organizations (for example, the Samoa Red Cross Society) and individuals also contributed to the relief effort. Sea wall repairs and extensions are now a high priority in all three villages. In 2006, UNDP provided $205,000 for the sea wall project. The project is ongoing at present under a national execution modality, wherein each atoll has been allocated funds from the total amount for strengthening their sea walls.

B. Public services

39. No further developments were reported during the review period (see A/AC.109/2005/3, paras. 32-34).

C. Transport and communications

40. Tokelau has no airstrips and until recently its main transportation option was that provided by a single vessel, the *MV Tokelau*, a mail ship with limited cargo and passenger capacity that provided a service every two weeks between Tokelau and Apia, as well as inter-atoll services. The United Nations mission that visited the Territory in August 2002 concluded that the lack of transportation options was one of the greatest obstacles to economic development in the Territory and recommended that serious consideration be given to the establishment of a dedicated inter-atoll ferry and an airstrip on one of the atolls. Since 2003, New Zealand has funded additional visits by larger vessels under charter from the Samoa Shipping Corporation. A review of shipping services has been completed and consideration is now being given to the provision by New Zealand, under its official development assistance programme, of a purpose-built ship owned by the Tokelau Government.

During the Pacific regional seminar on Decolonization, held in Fiji in November 2006, Administrator David Payton said he was pleased to be able to signal major advances in the upgrading of the shipping services. Improvements to the wharfage facilities at each atoll are also being studied.

41. Over the past 10 years, large investments have been made to facilitate contacts for Tokelauans inter-atoll as well as with the outside world. In April 1997, the Telecommunications Tokelau Corporation, a $NZ 4 million international telecommunication service, was inaugurated. Tokelau also has a website (http://www.dot.tk) which became operational in January 2002 and offers both free and paid dot.tk domain names. The website is the result of a commercial licensing agreement between the Corporation and a private company, Taloha Inc. It is seen as having the potential to provide revenue to the Territory without any capital outlay by the Corporation.[3]

42. In February 2002, FM radio stations were inaugurated on each of the atolls with funding from the New Zealand Agency for International Development. Although they currently operate independently, there are plans to link them at least once a week for a national programme. This is being considered under a media development project funded by UNESCO. The new radio stations are seen as an excellent means of maintaining the Territory's cultural heritage, as well as a way of facilitating communication and transparency on community and decision-making matters, since they broadcast meetings of the Council of Elders on each atoll.

43. In 2004, UNDP funded a comprehensive review of telecommunications and stimulated a number of reforms in the Telecommunications Tokelau Corporation and integration of Internet facilities and services. A Tokelau law website, funded by the UNDP democratic governance trust fund, aimed at making the Constitution and all Tokelauan legislation accessible to the Tokelauan population, was developed in 2005 and launched in February 2006.

D. Power supply

44. In 2001, work was begun on a diesel-powered electricity system in all three atolls under the auspices of the New Zealand Agency for International Development. The initial stages of the project, completed in 2004, cost some $NZ 2 million. In 2005, an agreement was reached on the completion of the project at an additional cost of $NZ 1 million. Work is now under way. Tokelau's undertaking to be completely provisioned by renewable energy sources is supported by a pilot photovoltaic energy grid project funded by UNDP and contributions from the Government of France. The project, covering 15 households on Fakaofo, will be expanded to complete atoll coverage, thereby significantly reducing reliance on fossil fuels.

[3] Press release, "History in the making" (February 2002), and information transmitted by the Administrator of Tokelau.

V. Social conditions

A. Education

45. Under Tokelau's compulsory education system, primary and secondary education are available to everyone. As a member of the University of the South Pacific, Tokelau also has access to the University's educational telecommunications system, through a satellite established in Atafu. The low standard of the education system remains a problem, however, with many families migrating to New Zealand or Samoa in order for their children to receive higher-quality education. In 2002, a comprehensive study of Tokelau's education system was carried out. Additional technical support has been provided by New Zealand in line with the recommendations of the report. In 2006, $NZ 445,000 was allocated to scholarships. In 2004, a senior education adviser was appointed; in 2005, a strategic plan was developed in consultation with all three villages.

B. Health

46. Average life expectancy is 69 years.[4] There are three basic hospitals, one on each atoll. The shortage of qualified medical practitioners and general health-care workers and the maintenance of installations and equipment remain serious problems. In addition, the need to transfer the more serious cases to Samoa or New Zealand for treatment represents a large expense in the national budget. A New Zealand-based health adviser provides support to the Director of Health and coordinates the provision of advice and assistance, including the appointment of doctors for limited periods. A new arrangement with a regional health board has resulted in significant improvements in the management of patient referrals to New Zealand. A pilot cervical screening programme is now under way: a pharmacist has been contracted to help with supplies of medicine and drugs. A senior nursing adviser has been appointed to raise professional nursing standards. The 2005-2006 budget allocation for health was $NZ 1.1 million.

47. Tokelau is an Associate Member of WHO, which has focused its support on four priority health areas (with a total budget allocation of $107,000 in 2006), namely, human resources for health (such as the training of dentists and nurses); health promotion (workshops and awareness campaigns on HIV/AIDS and other topics); non-communicable disease prevention and control (such as surveys of risk factors), tobacco education through training courses and workshops, surveys and campaigns; and providing technical consultants and supplies and equipment. The need for these health education programmes has come as a result of changes in lifestyle and an increase in non-communicable diseases in Tokelau.[5]

C. Status of women

48. No further developments were reported during the review period (see A/AC.109/2005/3, para. 42).

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[4] UNDP, *Pacific Human Development Report*, 1999.

[5] Information from WHO, 28 January 2007.

VI. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

49. It will be recalled that in August 2002, a mission of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples visited Tokelau and New Zealand at the invitation of the Government of New Zealand and the people of Tokelau. It was the fifth United Nations fact-finding mission to Tokelau, the first having been in 1976. For further details, see the report of the mission (A/AC.109/2002/31). In October 2004, the Chairperson of the Special Committee on Decolonization attended the special constitutional workshop held at Atafu, pursuant to the invitation extended by the Ulu of Tokelau earlier in the year.

50. In February 2006, at the invitation of the Government of New Zealand and the people of Tokelau, the former Chairman of the Decolonization Committee, Ambassador Robert Aisi, and a representative of the Decolonization Unit of the Department of Political Affairs attended the Tokelau referendum, as described in paragraph 17 above. In June 2006, like in previous years, the Ulu-o-Tokelau, Kolouei O'Brien, and the then Administrator, Neil Walter, participated in the session of the Special Committee at Headquarters in New York (see paras. 55 and 57 below). In November 2006, the Special Committee held a Pacific regional seminar in Yanuca, Fiji, at which Tokelau was used as a case study illustrating how small Territories might approach the challenges of decolonization.[6]

51. The Special Committee considered the question of Tokelau at its 13th meeting, on 22 June 2006 (see A/AC.109/2006/SR.13). Statements were made at that meeting by the Administrator of Tokelau and the Ulu-o-Tokelau. The representative of Papua New Guinea, on behalf of Fiji and Papua New Guinea, introduced a draft resolution entitled "Question of Tokelau" (A/AC.109/2006/L.15). The Committee adopted the draft resolution without a vote.

B. Special Political and Decolonization Committee (Fourth Committee)

52. At its 2nd meeting, on 2 October 2006, the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly heard statements by the Rapporteur and the Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, in which they referred to developments in 2006 regarding Tokelau (see A/C.4/61/SR.2).

53. At the same meeting, the Special Political and Decolonization Committee heard a statement by the Permanent Representative of New Zealand to the United Nations. At the same meeting, the representatives of Cuba and Saint Lucia also made statements in which they commended the New Zealand Government for its exemplary cooperation with the Special Committee. The representatives also noted

[6] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 23 A* (A/61/23/Add.1).

the value of visiting missions to Non-Self-Governing Territories as an important way of disseminating information on their options for self-determination. At its 7th meeting, on 11 October 2006, the Committee adopted the draft resolution entitled "Question of Tokelau",[7] as orally revised by its sponsors, without a vote.

C. Action taken by the General Assembly

54. On 14 December 2006, at its 79th plenary meeting, on the recommendation of the Fourth Committee, the General Assembly adopted resolution 61/127 on the question of Tokelau without a vote. On the same date, it also adopted resolution 61/130 on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, paragraphs 6 to 9 of which refer to Tokelau.

VII. Future status of the Territory

A. Position of the administering Power

55. Speaking before the Special Committee on Decolonization at its 13th meeting, on 22 June 2006, the then Administrator of Tokelau, Neil Walter, said it was surprising and disappointing that Tokelau had failed to garner enough votes to approve the February referendum to become self-governing in free association with New Zealand (see A/AC.109/2006/SR.13). For three decades, Tokelau had been steadily developing its capacity for self-government, establishing its own political and governance systems and judiciary, as well as full control over its budget. In practice, Tokelau had been running its own affairs for some considerable time under delegated authority from the Administrator, with New Zealand increasingly concentrating on playing its support role. In addition, an immense amount of work had gone into the framing of a draft constitution and a draft treaty of free association, which reflected the equal partnership that had developed between Tokelau and New Zealand. He said that both texts had been endorsed by Tokelau's General Fono and New Zealand's Cabinet, and if and when adopted by Tokelau, would lock in for all time both Tokelau's right to determine its own destiny and New Zealand's commitment to provide support and assistance. The Administrator also confirmed that following the referendum, the request by Tokelau's Council of Ongoing Government to leave the referendum package on the table had been agreed to by the New Zealand Government. He also noted that, for its part, New Zealand would continue to respect the right of Tokelau to determine the direction and pace of political change.

56. Speaking before the Special Political and Decolonization Committee (Fourth Committee) at its 2nd meeting, on 2 October 2006, the representative of New Zealand said that although there had been a 95 per cent turnout for the referendum on self-government of Tokelau in free association with New Zealand, held from 11 to 15 February 2006, votes in favour had fallen just short of the two-thirds majority required, with 60 per cent of the voters supporting self-government in free association with New Zealand (see A/C.4/61/SR.2). Tokelau's political leadership was disappointed with the outcome but it remained unanimously committed to the

[7] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 23* (A/61/23, chap. XII, draft resolution V).

objective of self-government, she said. Since the referendum, Tokelau's Council of Ongoing Government had conducted meetings with the three village councils and the General Fono, to consider the referendum result and decide on Tokelau's future course of action. She added that Tokelau had recently indicated its intention to schedule a second referendum for November 2007. The representative noted that New Zealand would continue to work with the people of Tokelau as they travelled along that path and appreciated the support of the Special Committee in this.

B. Position of the people of Tokelau

57. At the 13th meeting of the Special Committee, on 22 June 2006, the Ulu-o-Tokelau, Kolouei O'Brien, noted that since the February 2006 referendum, the Tokelauans had reflected on the vote and regrouped (see A/AC.109/2006/SR.13). After several meetings, the General Fono had decided to continue working towards full self-government in free association with New Zealand and in August would set a date for a new referendum. Tokelau's relationship with New Zealand remained strong, he added, noting that the two sides were negotiating the terms of the 2008-2010 budget, as well as improvements to health, education, shipping and village development. Better communications and transport would help strengthen Tokelau internally, as well as its links to the outside world. He expressed hope that the guidance and support of the United Nations and the Special Committee would not waver as Tokelau progressed towards self-determination.

58. As mentioned earlier, during the Special Committee's Pacific regional seminar, held in November 2006 in Yanuca, Fiji, Tokelau was used as a case study illustrating how small Territories might approach the challenges of decolonization. At the seminar, the Ulu-o-Tokelau formally informed the Special Committee of the General Fono's consensus decision in August 2006 to hold a second referendum on Tokelau's self-determination in November 2007. He also said that a timeline of activities had been agreed to leading up to the referendum. A team in each village would be trained in January 2007 on the issues pertaining to the self-determination options and package and on other details to ensure the continuous flow and presence of information on self-determination in the villages for all institutions, including non-governmental organizations and members of the community.

59. Summing up matters which remained on the table for consideration from the Tokelau perspective on decolonization, the Ulu said that, internally, work continued on village governance and strengthening unity at the level of national Government. Externally, the material conditions of communication remain the most obvious and most commented-upon issue. Also, settling the maritime boundaries and formalizing the relationship with Samoa were also significant matters, both for governance and for the better management of Tokelau's exclusive economic zone.

United Nations A/AC.109/2007/12

General Assembly

Distr.: General
28 March 2007

Original: English

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Gibraltar

Working paper prepared by the Secretariat

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I. General[1]

1. Gibraltar is a Non-Self-Governing Territory administrated by the United Kingdom of Great Britain and Northern Ireland. The Territory is a narrow peninsula extending southward from the south-west coast of Spain, to which it is connected by an isthmus about 1.6 kilometres long. The Spanish port of Algeciras lies 8 kilometres across the bay to the west; the continent of Africa is situated 32 kilometres across the Strait of Gibraltar to the south. According to the administering Power, the area of Gibraltar is 5.8 square kilometres, and according to Spain, which also claims its sovereignty over the Territory, it is 4.8 square kilometres. In 2004, Gibraltar observed the anniversary of 300 years under British rule. The 2005 census of Gibraltar assessed the Territory's civilian population at 28,779.

II. Constitutional, legal and political issues

2. In accordance with the Constitution put in force as of 2 January 2007, the Governor of Gibraltar, who represents the United Kingdom and who, with the Council of Ministers, constitutes the Government of Gibraltar, shall be responsible for external affairs, defence, internal security, including police, and certain appointments as are conferred on him by the Constitution. Following an election, the Governor, acting in his discretion, shall appoint as Chief Minister the elected member of the Parliament who in his judgement is most likely to command the greatest measure of confidence among the elected members of the Parliament. The Ministers other than the Chief Minister shall be appointed by the Governor, acting in accordance with the advice of the Chief Minister, from among the elected members of the Parliament (see www.gibraltar.gov.gi).

3. The last general elections in Gibraltar were held on 27 November 2003. The incumbent Gibraltar Social Democratic Party obtained 51 per cent of the vote, followed by the Gibraltar Socialist Labour Party, which, in alliance with the Liberal Party, obtained 40 per cent of the vote. Peter Caruana, leader of the Gibraltar Social Democratic Party, was reappointed Chief Minister of Gibraltar. Joseph Bossano continues as Leader of the Opposition. The Parliament must be dissolved by 23 November 2007 in preparation for the next general election.

Recent developments

4. The United Kingdom's White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories", presented to Parliament in March 1999, spoke of each Territory's need for a constitutional framework to suit its own circumstances and stated that suggestions from Overseas Territory Governments for specific proposals for constitutional change would be considered carefully.[2] In June

[1] The information contained in the present paper has been derived from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations and from information provided by the Government of Spain and other published sources, including those of the territorial Government.

[2] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", White Paper submitted to the House of Commons on 17 March 1999 by the United Kingdom Secretary of State for Foreign and Commonwealth Affairs; reproduced in A/AC.109/1999/1, annex.

1999, Gibraltar's House of Assembly set up a Select Committee on constitutional reform and on 27 February 2002 formally adopted a report on the matter. The Chief Minister said that the object of the exercise had been to achieve a constitution that "maximized self-government", in the language of the United Nations decolonization proposals, and modernized domestic institutions to reflect that.

5. The Chief Minister submitted the constitutional reform proposals formally to the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom on 22 December 2003 and suggested that the two meet informally to discuss the proposals and the way forward. The Secretary of State acknowledged the importance of those proposals to Gibraltar and said that they would receive the most careful consideration. Negotiations began in 2005 aimed at modernizing Gibraltar's Constitution in a way that Gibraltar would remain British but in a non-colonial relationship with the United Kingdom. The discussions were held exclusively between the United Kingdom and a cross-party representation from Gibraltar, led by the Chief Minister and including the leader of the Opposition, Joseph Bossano.

6. Meanwhile, in June 2004, after a 10-year campaign to exercise the right to vote in European elections, Gibraltarians, considered by the administering Power to be part of the South West England region for electoral purposes, took part in the European Parliamentary Elections.

7. On 27 March 2006, Jack Straw, the then Foreign Secretary of the United Kingdom, announced in a written statement to the British House of Commons that the details of a new Constitution had been agreed between the United Kingdom and Gibraltar delegations. On 30 November 2006, the Gibraltar constitutional referendum was held and the new Constitution was approved by 60.24 per cent of those who voted (60.40 per cent), while 37.75 per cent voted against and the remainder returned blank votes.[3]

8. In his letter dated 22 January 2007 addressed to the Secretary-General (A/61/710), the Permanent Representative of the United Kingdom to the United Nations informed that the new Constitution of Gibraltar was given effect by an Order-in-Council on 14 December 2006 and that the new Constitution came into force on 2 January 2007. Noting that it recognized the right of self-determination of the Gibraltarian people, the Permanent Representative said that the new Constitution provided for a modern relationship between Gibraltar and the United Kingdom that was not based on colonialism.

9. Spain, however, stated that the entry into force of the new Constitution was "an improvement and a modernization of its government that in no way affect the international capacity of Gibraltar" and that the "amendment of the Constitutional Decree was a reform of the colonial regime, which remains unaltered".[4] The Spanish Government further stated that the 30 November 2006 referendum was "a local initiative which represents the democratic expression of the inhabitants of Gibraltar to give them a more efficient government system" and that it did not affect "in any way the pending decolonization process of Gibraltar, to which the principle of self-determination does not apply".[4]

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[3] Information provided by the administering Power, January 2007.

[4] Information provided by the Government of Spain, March 2007.

10. As mentioned in previous working paper, the negotiations between the United Kingdom and Spain on the subject of Gibraltar had led to the establishment in 2004 of a forum of dialogue on Gibraltar. A joint press release by the Spanish Ministry for Foreign Affairs, the British Foreign and Commonwealth Office and the Government of Gibraltar dated 14 December 2004 stated: "Accordingly and without prejudice to their respective positions, the Governments of Spain and the United Kingdom and Gibraltar now confirm the establishment of a new three-sided Forum for dialogue on Gibraltar, separate from the Brussels Process."[5]

11. The joint press release further stated, inter alia, that in this Forum, "without prejudice to their constitutional status (including the fact that Gibraltar is not a sovereign independent State), each of the three parties will have its own, separate voice and each will participate on the same basis. Any decisions or agreements reached within the Forum must be agreed by all three participants. If the three parties wish to take a decision on an issue in the Forum where formal agreement would properly be between the United Kingdom and Spain, it is understood that the United Kingdom will not agree thereto without the Government of Gibraltar's consent."

12. Since the establishment of the Forum, there have been six rounds of discussions. On 18 September 2006, the Minister for Foreign Affairs and Cooperation of Spain, the Minister for Europe of the United Kingdom, and the Chief Minister of Gibraltar met in Cordoba, Spain, and issued a communiqué containing a package of agreements aimed at enhancing the economic and social development of both Gibraltar and the surrounding region, in particular the Campo de Gibraltar. The participants stated in the ministerial communiqué of the Forum that those agreements had no implications whatsoever regarding sovereignty and jurisdiction, and any activity or measure undertaken in applying them, or as a consequence of them, was understood to be adopted without prejudice to the respective positions on sovereignty and jurisdiction. The communiqué stated that the Government of Gibraltar understands and accepts that references to sovereignty in the communiqué are bilateral to the United Kingdom and Spain. Some of the agreements reached are reflected in sections III and IV below.

13. The latest round of the Forum took place for the first time in Gibraltar on 26 March 2007.[6]

14. The positions of the administering Power, the territorial Government and the Government of Spain are reflected in section VI of the present report.

III. Economic conditions

A. General

15. Gibraltar has no known natural resources and lacks agricultural land. Prior to 1980, the economy was largely dependent on Ministry of Defence expenditures, but with the downsizing of the military base, the economy has increasingly become focused on tourism and the provision of financial services, such as banking, insurance, shipping and portfolio management. The currency of Gibraltar is the

[5] Joint Communiqué of 16 December 2004.

[6] See www.panorama.gi, 26 March 2007.

pound sterling. According to the administering Power, the gross domestic product (GDP) of Gibraltar in 2003-2004 was £560.1 million, and per capita GDP was £19,552. Inflation in 2006 was running at an annual rate of 2.3 per cent.

16. In his 2007 New Year's message, the Chief Minister stated that Gibraltar's economy had had another excellent year, with an estimated growth rate of around 7 per cent. Employment levels had remained at record highs, the finance centre continued to mature, develop and grow and the gaming industry had continued to prosper despite various external challenges, particularly the criminalization of online gambling in the United States of America. The Chief Minister stated that the private sector economy continued to perform very well and the economy as a whole had continued to grow by around 7 per cent annually. The territorial Government's overall revenue for 2006-2007 was estimated at £250 million and overall expenditure of £232.7 million, registering a surplus of £17.3 million. Government cash reserves stood at the all-time high of £93.6 million as at 31 March 2006.[7]

B. Public finance

17. According to the territorial Government, revenue credited to the Consolidated Fund for the year ending on 31 March 2006 was estimated at £197.6 million, and departmental expenditure amounted to £179.6 million. The main sources of Consolidated Fund revenues were income tax, which totalled £112 million, followed by duties, taxes and other receipts amounting to £38.2 million. The main Consolidated Fund areas of expenditure for 2005-2006 were as follows: health and civil protection, £34.3 million; environment, roads and utilities, £24.5 million, education and training, £21.1 million; and social and civic affairs, £19.4 million.

18. Income tax is charged for the year of assessment running from 1 July in one calendar year to 30 June in the next on the basis of the income of the preceding year, except for income from employment or pension, which is charged on the basis of the income for that current year. The income tax rates applicable to individuals resident in Gibraltar range from 17 per cent on the first £4,000 of taxable income to 42 per cent after the first £13,000. The corporate tax rate is 35 per cent for utility companies. Other companies are taxed at very low rates and, in practice, the offshore sector remains untaxed. The European Commission found that the corporate tax reform in Gibraltar constituted a scheme of State Aid incompatible with the common market and referred the case to the Court of First Instance of the European Communities. A final decision of the Court is expected in the near future.

19. According to the administering Power, the capital projects investment programme continues to enhance and modernize all physical aspects of facilities in Gibraltar across a wide range of areas, including affordable housing, the provision of health care, education, improved infrastructure and recreational facilities. The estimated capital investment in private development for 2006 was approximately £169 million.

20. In addition to this, a number of public, private and joint European Union (EU) funding projects continue as in other years. These include restoration and urban regeneration of Gibraltar's heritage asset; improving the urban environment; infrastructure schemes to improve access for tourism infrastructure projects that

[7] See www.gibraltar.gov.gi/gov.

include upgrading and improving sites; business investments including preferential access to seed and EU funding schemes for small and medium enterprises and the self-employed; nature conservation projects; measures to protect and enhance the Territory's natural habitat and biodiversity; development of a new public bus service, with particular emphasis on its environmental benefits; and the development of improved facilities for handling waste oils in the shipping sector to make the port more attractive to ship calls by offering improved services and making it more environmentally friendly.

21. According to the Spanish Government, as a result of the agreements reached during the 18 September 2006 ministerial meeting of the Forum for Dialogue on Gibraltar, Spain has invested about €20 million in customs and police facilities in La Linea.

C. Trade

22. In 2005, total imports and exports (excluding petroleum products) amounted to £303 million (up from £292 million in 2004) and £110 million (up from £108 million in 2004), respectively. Some 22 per cent of Gibraltar's non-fuel imports originated from the United Kingdom. Other major sources of imports included Spain, the Netherlands, France, Japan and the United States.

D. Banking and finance

23. Gibraltar's international financial services sector stems from the enactment of the Companies (Taxation and Concessions) Ordinance in 1967, which made provision for a special tax regime for offshore companies. The Gibraltar Finance Centre, established in 1997, is charged with the marketing and promotion of financial services, input into strategic planning including the various international initiatives, product development, and liaison with the private sector and the regulator. At the end of 2006, there were 18 banks authorized to conduct banking business in Gibraltar.

24. A report issued in June 2000 by the Organization for Economic Cooperation and Development (OECD) included Gibraltar in a list of 35 jurisdictions that met the technical criteria for being tax havens. Gibraltar, together with 29 other jurisdictions, won the favour of the Organization for Economic Cooperation and Development (OECD), as a result of the diligence reflected in the OECD progress report on its project on harmful tax practices. OECD subsequently declared, on the basis of its commitment to sign tax information exchange agreements, that it would not be included in its next list of uncooperative tax havens. However, Gibraltar has no internal legislation to obtain information to respond to a request for exchange of information for tax purposes because it has no tax information exchange agreements in force. In February 2005, the administering Power announced its decision to abolish the Gibraltar exempt company tax regime by 2010.

25. The newly proposed Financial Services Commission Act 2007 is expected to be supported by the Gibraltar Parliament and is currently being discussed. The Act provides for an independent review of the supervisory activities of the Commission at least once every four years. Furthermore, the Act replaces the Governor with a

Minister as the person to bring the Act into effect. The Finance Minister also replaces the Governor as the person with power to appoint members.

26. Gibraltar's efforts to ensure successful regulatory systems have met with international recognition from OECD and others, and it is generally recognized that Gibraltar is among the most stringently policed jurisdictions with enforcement to appropriate high standards.

27. According to Spain, the tax system in Gibraltar has enabled the gross average investment per Gibraltarian in Spain during the period 2002-2005 to be of €988 per year. This figure is 7.5 times larger than the annual average investment per citizen of any of the EU member States in Spain.

E. Transportation, communications and utilities

28. According to the administering Power, arrivals in Gibraltar are by land, comprising mainly day visitors arriving from Spain; by air, primarily from the United Kingdom; and by sea, comprising ferry arrivals from Morocco and day-trip arrivals from cruise ships. Visitor arrivals in 2006 included 7,815,661 arrivals by land; 210,799 cruise visitor's arrivals; 9,958 ferry arrivals; and 164,395 arrivals by air.

29. Regarding road transportation in and out of Gibraltar as a result of the Cordoba agreements, Spain put in service two lanes in both directions and red and green channels, for both people and vehicles, at the fence/frontier between Spain and Gibraltar on 20 December 2006. However, customs and police checks will still be necessary, since Gibraltar does not belong to the EU customs union and the United Kingdom (and thus Gibraltar) is outside the so-called Schengen area for external borders purposes.[8]

30. According to the administering Power, there are regular airline services linking Gibraltar to several United Kingdom airports. A new Gibraltar-based airline intends to offer weekly flights to the United Kingdom and Ireland from mid-2007 onwards. The ministerial statement on Gibraltar Airport, as an outcome of the Forum for Dialogue, will replace the December 1987 Joint Declaration on the Airport. The joint ministerial statement, once it is fully applied, will be the trigger for removal of the suspension of the application to Gibraltar of the European Commission regulation on civil aviation from which the airport of Gibraltar is presently excluded. A permanent joint liaison committee for the participants will be established as a forum to consider at a technical level any problem or issue relating to the functioning of the arrangements of the Airport. Since 16 December 2006, Spain has lifted its previous veto on direct flights between Gibraltar and other European airports.[9]

31. The United Kingdom Government is responsible for all international obligations including aviation safety and security relating to the Gibraltar Airport. As announced by the Tourism Minister, a new air terminal will be completed within the next two years. A new road structure to serve the Land Frontier with Spain,

[8] Communiqué of the Ministerial meeting of the Forum of 18 September 2006.

[9] Information provided by the Government of Spain.

without having to cross the airport runway, is being developed in parallel and will be ready by 2008.[10]

32. As the Strait of Gibraltar is a principal water route between the Mediterranean Sea and the rest of the world, Gibraltar is used as a port by many long-distance liners and cargo ships. Plans exist to establish and develop business links between Tangier, Morocco, and Gibraltar since the maritime leisure dimension of cruise calls and yachting is the core business for both ports.[11]

33. The joint ministerial statement of the Forum for Dialogue on Gibraltar made on 18 September 2006 declared that in order to both address the current limitation on the quantity of telephone numbers in Gibraltar accessible from and through the Spanish network, and also enable roaming agreements between networks in Spain and Gibraltar for mobile telephones, telephone calls from Spain to Gibraltar would be channelled using the technical procedures for international direct dialling recommended by the International Telecommunications Union for all States and Territories, including the Territory of Gibraltar. These agreements became operational on 10 February 2007.

F. Tourism

34. The total number of visitors that arrived in Gibraltar in 2005 was 7.8 million, compared to 7.6 million in 2004. There were 58,796 hotel arrivals in 2005, a slight decrease over 2004, during which 61,710 hotel arrivals were registered. In 2005, there were a total of 121,589 daily hotel room bookings, registering an occupancy rate of 68.6 per cent.

IV. Social conditions

A. Labour

35. Recent statistics released by the territorial Government placed the number of employees in Gibraltar as of October 2005 at 16,874, compared to 15,994 at the same period in 2004. Of the total, 9,806 were male and 7,068 female. The distribution of persons employed by the five largest sectors was as follows: wholesale and retail trade, 2,693; public administration and defence, 2,160; construction, 1,861; real estate and business activities, 1,846; and financial intermediation, 1,440. In his June 2006 budget speech to Parliament, the Chief Minister stated that the number of jobs in the economy was at an all-time high in 2006 and still growing. The rate of employment within the economically active Gibraltar population is estimated at 97 per cent.[12]

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[10] Information provided by the administering Power.

[11] See www.gibraltar.gi, 6 February 2006.

[12] Chief Minister's Budget Speech, June 2006, see www.chronicle.gi/Features/Caruana%20Budget/Caruana%20Statement.htm.

B. Human rights

36. Information on fundamental rights and freedoms granted by the Gibraltar (Constitution) Order of 1969 is contained in the 2005 working paper (A/AC.109/2005/11, para. 28). The right of individual petition under the European Convention on Human Rights was accepted by the United Kingdom on a permanent basis for Gibraltar on 14 January 2006.[13]

C. Social security and welfare

37. According to the administering Power, a settlement of the issue of the pension of former pre-1969 Spanish workers in Gibraltar, which are the responsibility of the United Kingdom and are paid exclusively by the United Kingdom, was achieved under the joint ministerial accord of 18 September 2006. The agreement allowed for a solution that would benefit some 5,700 people who would be paid an uprated pension by the United Kingdom as from 1 April 2007 and who would additionally be entitled to a lump sum if they agreed to leave the Gibraltar Social Insurance Fund and join a new scheme set up by the United Kingdom. Details of the contributory schemes of the Social Security system are contained in A/AC.109/2001/10, paragraph 40.

D. Public health

38. The Gibraltar Health Authority is the organization responsible for providing health care in Gibraltar. It operates a group practice medical contributory scheme and gives registered persons access to free medical treatment (for a description of the available medical facilities, see A/AC.109/2001/10, paras. 42 and 43). According to the administering Power, the expenditure of the Gibraltar Health Authority for the period from 1 April 2005 to 31 March 2006 was £51.62 million. The new 166-bed St. Bernard's Hospital at Europort, which opened in February 2005, provides a comprehensive outpatient service and inpatient treatment for acute medical and surgical cases.

E. Education

39. The Department of Education and Training continues to be in charge of public education in Gibraltar. Expenditure on education at the end of March 2006 was £20.5 million. A programme of major improvements to Government schools at a cost of £1 million was completed in 2006. As at the end of 2006, there were a total of some 5,300 children enrolled in Government schools, including Government nurseries. There is free compulsory education for all entitled children between the ages of 5 and 15. There are 13 primary schools — 11 Government-run, 1 private school and 1 services school — with a total of 3,195 students enrolled. There are also four single-sex secondary schools — two Government-run schools, with a total of 2,061 students, and two private schools. There is also a technical and vocational college with 390 students enrolled. The number of teachers employed in Gibraltar during the 2006-2007 academic year was 343. In 2006, 497 Gibraltarians were

[13] See www.fco.gov.uk/servlet/.

pursuing higher education studies in the United Kingdom, funded by the territorial Government, which covers the cost of university and college tuition fees.[14]

40. On 18 September, in the joint ministerial statement, the Forum for Dialogue on Gibraltar welcomed the proposal of the Spanish Government to open an Instituto Cervantes in Gibraltar. The Gibraltar Government agreed to make suitable premises available for it.

F. Crime and crime prevention

41. Law enforcement in the Territory is the responsibility of the Royal Gibraltar Police. According to the administering Power, a total of 1,054 persons were arrested for minor offences, such as those related to liquor, disorderly conduct and immigration violations from January to December 2006. During the same period, 1,210 persons were arrested for serious crimes, such as those related to violence against the person, sexual offences, burglary and drugs.[15]

V. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

42. A representative of Spain attended the Pacific regional seminar on the implementation of the Second International Decade for the Eradication of Colonialism, held at Yanuca, Fiji, from 28 to 30 November 2006, and made a statement.

43. The Special Committee discussed the question of Gibraltar at its 5th meeting, on 6 June 2006 (see A/AC.109/2006/SR.5), and had before it the 2006 working paper concerning the Territory (A/AC.109/2006/9). Statements were made by the representative of Spain, the Chief Minister of Gibraltar, Peter Caruana, and the Leader of the Opposition in Gibraltar, Joseph Bossano. On the proposal of the Chairman, the Committee decided to continue consideration of the question at its next session and, in order to facilitate consideration of the question by the Special Political and Decolonization Committee (Fourth Committee), to transmit the relevant documentation to the General Assembly.

B. Special Political and Decolonization Committee (Fourth Committee)

44. The Fourth Committee considered the question of Gibraltar at its 4th meeting, on 4 October 2006 (see A/C.4/61/SR.4). At that meeting, statements were made by the representative of Spain, Juan Antonio Yañez-Barnuevo, the Chief Minister of Gibraltar, Peter Caruana, and the petitioner, Joseph Bossano, Leader of the Opposition in Gibraltar. At its 3rd meeting, on 3 October, the Fourth Committee

[14] Information provided by the administering Power, March 2007.

[15] Information provided by the administering Power, 15 January 2007.

heard a statement by the representative of the United Kingdom regarding the 10 Territories that are on the United Nations list of Non-Self-Governing Territories administered by the United Kingdom (see A/C.4/61/SR.3). At its 7th meeting, on 11 October, the Fourth Committee adopted a draft decision on the question of Gibraltar (A/C.4/61/L.6) without a vote.

C. Action by the General Assembly

45. At its 79th plenary meeting, on 14 December 2006, the General Assembly, on the recommendation of the Fourth Committee, adopted a decision (61/522) without a vote. The decision reads as follows:

> "The General Assembly, recalling its decision 60/525 of 8 December 2005 and the statements agreed to by the Governments of Spain and the United Kingdom of Great Britain and Northern Ireland in Brussels on 27 November 1984, and in Madrid on 27 October 2004, and noting the establishment, pursuant to the latter, of the tripartite Forum for Dialogue on Gibraltar, separate from the Brussels Process, under the statement made jointly by the Governments of Spain, the United Kingdom and Gibraltar on 16 December 2004:
>
> (a) Urges both Governments, while listening to the interests and aspirations of Gibraltar, to reach, in the spirit of the 27 November 1984 statement, a definitive solution to the question of Gibraltar, in the light of relevant resolutions of the General Assembly and applicable principles, and in the spirit of the Charter of the United Nations;
>
> (b) Welcomes the successful outcome of the first package of measures concluded in the tripartite Forum for Dialogue on Gibraltar."

VI. Future status of the Territory

A. Position of the administering Power

46. In her statement at the 3rd meeting of the Fourth Committee, held on 3 October 2006, at the sixty-first session of the General Assembly (see A/C.4/61/SR.3), the representative of the United Kingdom said the consultation process between her Government and the 10 Non-Self-Governing Territories under its administration continued through annual meetings of the Overseas Territories Consultative Council, a forum for dialogue between democratically elected chief ministers from the Territories and British Government ministers. The agenda for the November 2006 meeting in London would cover a range of issues, including the relationship between the United Kingdom and the Territories, constitutional modernization, good governance and aspects of the United Kingdom's international obligations.

47. Noting that the overseas Territories had been invited to review and propose ways of modernizing their Constitutions, she said that the negotiations on the new constitution for Gibraltar had been completed and the agreed text would soon be put to the people of Gibraltar in a referendum.

48. In supporting its overseas Territories, she pointed out, her Government focused on increasing local capacity and promoting sustainable development. Its funding contributed to improving governance and promoting political and economic transparency; ensuring security; reducing vulnerability to natural and non-natural disasters; encouraging more diversified economic development; and supporting environmental management. Her Government also encouraged the Territories to strengthen relations with the European Commission in order to improve access to trade and to European economic and development aid.

49. In his letter of 22 January 2007 (A/61/710), the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations informed the Secretary-General that a new Constitution for Gibraltar was given effect by an Order-in-Council on 14 December 2006 and that it came into force on 2 January 2007. The letter further said that the draft text of

> "this Constitution was put to the people of Gibraltar in a referendum on 30 November, and approved by them. This followed a unanimous decision by the Gibraltar House of Assembly to hold a referendum. The United Kingdom regards the referendum as democratic, lawful and entirely proper. Geoff Hoon, the Minister for Europe, also confirmed, on 4 July 2006, that the Government of the United Kingdom regards the referendum as an exercise of the right of self-determination by the people of Gibraltar."

50. The letter went on to say that

> "The new Constitution recognizes the right of self-determination of the Gibraltarian people. The realization of that right must be promoted and respected in conformity with the provisions of the Charter of the United Nations and any other applicable international treaties. At the same time, the United Kingdom does not believe that the principle of territorial integrity is applicable to the decolonization of Gibraltar. British sovereignty of Gibraltar remains undiminished, and the United Kingdom retains its full international responsibility for Gibraltar's external relations and defence, and as the Member State responsible for Gibraltar in the European Union. For nationality purpose, Gibraltar will remain listed as a British Overseas Territory in the British Nationality Act of 1981, as amended by the British Overseas Territory Act 2002."

51. Noting in the letter that the new Constitution provides for a modern relationship between Gibraltar and the United Kingdom, the Permanent Representative said, "I do not think that this description would apply to any relationship based on colonialism. It has also been the long-standing view of the United Kingdom that none of its remaining overseas Territories, including Gibraltar, should remain on the United Nations list of Non-Self-Governing Territories, despite the different circumstances affecting Gibraltar (namely the stated position of the United Kingdom that independence is not an option without Spanish consent, by virtue of the Treaty of Utrecht). However, we regard the criteria used by the United Nations Special Committee on Decolonization as outdated, and believe that the criteria fail to take account of the way that relationships between the United Kingdom and its overseas Territories have been modernized, in a way that is acceptable to both parties. The United Kingdom does not, therefore, engage formally with the Committee in seeking the de-listing of any of its territories."

B. Position of the territorial Government

52. In his statement at the first meeting of the Gibraltar Parliament since the 2006 Constitution came into effect, convened on 26 February 2007, Chief Minister Peter Caruana noted that, for the first time, the United Kingdom had recognized that the people of Gibraltar enjoyed in their new Constitution the right of self-determination in terms of the Charter of the United Nations. Furthermore, he said, the United Kingdom had recognized and acknowledged that the Territory's referendum in November 2006 constituted an exercise of that right of self-determination. "In consequence, Gibraltar now enjoys a modern and mature constitutional relationship with the United Kingdom which is not based on colonialism. We are thus effectively decolonized."[7]

53. The Chief Minister stated that "since this House is now, formally, a Parliament and not an assembly, and is now called the Gibraltar Parliament, it is right that the precincts of the House should now be know as 'Parliament House' and that its members should now be known as Members of Parliament".[7] Noting that public finance and justice are the principal areas where direct ministerial responsibility is imposed on the territorial Government, which is now constitutionally responsible for all matters except external affairs, defence and certain aspects of policing and civil service matters, the Chief Minister said that the territorial Government had announced the creation of two new Ministries, the Ministry of Finance and the Ministry of Justice and Home Affairs. He further noted that for the time being, the Chief Minister assumes ministerial responsibility for justice and retains responsibility for police issues, immigration residence and personal status. He also said that in due course, the responsibility for civil contingency, the fire brigade, the prison and civic rights would become the responsibility of a single Minister for Justice and Home Affairs.

54. Earlier, the Chief Minister had made a statement at the 5th meeting of the Special Committee of 24 on 6 June 2006 (see A/AC.109/2006/SR.5) and the Fourth Committee on 4 October 2006 (see A/C.4/61/SR.4), impressing upon them Gibraltar's aspirations for self-determination. At the same meeting of the Fourth Committee, the leader of the Opposition in the Parliament of Gibraltar also made a statement.

55. Speaking to the Fourth Committee, the Chief Minister said that there could be no doubt that Gibraltar was a normal case of decolonization in accordance with the inalienable right to self-determination of its people. Self-determination was the only principle applicable in the decolonization process under the Charter of the United Nations and international legal instruments, and that it was an unsustainable misconception to seek to apply the principle of territorial integrity to any process of decolonization. Noting that his delegation did not agree with Spain's position that the principle of territorial integrity had priority over the principle of self-determination, he said that decolonization and sovereignty were different questions.

56. The Chief Minister stated that following negotiations with the United Kingdom, a new Constitution had been drafted that maximized Gibraltar's self-government to the point beyond which there could only be a constitution for Gibraltar's total independence. Pointing out that significant political and constitutional developments affecting Gibraltar had affected the decolonization process, he said that, in the view of his delegation, decolonization should no longer

concern the United Nations in the case of Gibraltar. The non-colonial relationship under the Constitution would bring about the decolonization of Gibraltar, although sovereignty was formally vested in the United Kingdom and the dispute over Spain's sovereignty remained.

57. The Chief Minister praised the work of the Forum for Dialogue on Gibraltar, in which all the parties concerned had worked diligently to settle long-standing issues such as the enhanced use of the Gibraltar airport, telecommunications, border fluidity and pension rights of cross-border Spanish workers. Welcoming the political effort of the Government of Spain, he said the Forum had demonstrated that Gibraltar and Spain could engage each other in dialogue without prejudice to the issues of sovereignty and self-determination.

58. The leader of the Opposition said that he did not agree with the position of the United Kingdom that the decolonization of Gibraltar should not include the participation of the United Nations. However, faced with no other option, he said that Gibraltar had arrived at a bilateral agreement with the United Kingdom, culminating in the new Constitution. He also said that the United Kingdom's opinion that the relationship with Gibraltar under the new Constitution was no longer colonial was untenable. Nor did he agree with the territorial Government that the Committee's decolonization criteria were outdated or unilaterally invented by the Special Committee. He emphasized that the only principle applicable to decolonization was self-determination and that if the new Constitution fell short of the requirements for decolonization, it could and should be amended, with the participation of the United Kingdom, Gibraltar and the United Nations.

C. Position of the Government of Spain

59. In his letter of 29 November 2006 addressed to the Chairman of the Special Committee, the Permanent Representative of Spain to the United Nations stated that the referendum to be held on 30 November on the new Constitution in Gibraltar was a purely local initiative that concerned only the authorities of Gibraltar (see A/61/604). The letter further pointed out that "although the United Kingdom Government, according to an answer given on 4 July 2006 to a parliamentary question, recognizes the referendum as an exercise of a presumed right of self-determination of the Gibraltarian people, it has also stated that this right is constrained by article X of the Treaty of Utrecht — which gives Spain the right of refusal should the United Kingdom decide to renounce its sovereignty over Gibraltar — and by the purposes and principles of the Charter of the United Nations. The United Kingdom had also affirmed that the new Constitution gave Gibraltar greater control over its internal affairs." On those grounds, Spain maintained that what had been recognized to Gibraltar by the United Kingdom was only a right of self-determination restricted to its purely internal dimension, with no consequences in the external context.

60. Speaking at the 4th meeting of the Fourth Committee on 4 October 2006 (see A/C.4/61/SR.4), the Permanent Representative of Spain said that neither the agreements of the Forum for Dialogue on Gibraltar of 18 September 2006 nor the constitutional reform in Gibraltar alter in any way the Spanish position on the dispute between Spain and the United Kingdom over Gibraltar nor the colonial nature of Gibraltar, nor should they imply any change in the doctrine of the United

Nations with respect to the decolonization of the Territory. Decolonization therefore had to be the result of bilateral negotiations between Spain and the United Kingdom in which the interests and aspirations of the Gibraltarians would be taken into account, and could not be a consequence of the exercise of a presumed right of self-determination by the Gibraltarians. However, he hoped that the agreements of Cordoba and the satisfactory conclusion of the constitutional reform process would usher in a climate conducive to a solution to the dispute between Spain and the United Kingdom over Gibraltar. He also stated that the dispute on sovereignty and the pending process on decolonization of Gibraltar are two inseparable issues.

61. The Spanish Secretary of State for Foreign Affairs declared to the media on 6 March 2007 that Gibraltar continued to be a non-self-governing British dependent Territory and that the reform of the United Kingdom Order-in-Council, which granted Gibraltar a new Constitution, had not altered the international status of Gibraltar, nor the process of decolonization, which, in accordance with the mandate of the United Nations, could only come about by means of a negotiation between Spain and the United Kingdom. Therefore, it could not be claimed that with the reform of the constitutional Order-in-Council a "de facto" decolonization was possible.[9]

62. As for the Forum, the Permanent Representative said that it had resulted in the conclusion of specific agreements on the use of the airport, the pensions of Spanish workers living in Gibraltar and the development of telecommunications and road infrastructures. He further noted that those agreements had been concluded without prejudice to the respective positions on sovereignty, including the Territory in which the airport was located, and that it had been acknowledged that the question of sovereignty was to be addressed in bilateral negotiations between Spain and the United Kingdom.

D. United Kingdom-Spanish negotiations

63. There were no bilateral negotiations on Gibraltar during 2006 in the so-called Brussels Process, which is separate from the Forum for Dialogue on Gibraltar. According to Spain, the Spanish Minister for Foreign Affairs, Miguel Angel Moratinos, stated in his letter dated 28 March 2006 to the then British Foreign Secretary, Jack Straw, that the Brussels Process was fully in force and invited the United Kingdom to continue, without further delay, these negotiations.

E. Forum for Dialogue on Gibraltar

64. Since the establishment of the Forum for Dialogue on Gibraltar in 2004, there have been six rounds of discussions among the representatives of the United Kingdom, Spain and Gibraltar. On 18 September 2006, the Minister for Foreign Affairs and Cooperation of Spain, the Minister for Europe of the United Kingdom, and the Chief Minister of Gibraltar held the first ministerial meeting in Cordoba and issued a communiqué that contained a package of agreements aimed at enhancing the economic and social development of both Gibraltar and the surrounding region, in particular the Campo de Gibraltar. The agreements covered such areas as pensions for pre-1969 Spanish workers in Gibraltar, the Gibraltar airport, and telecommunications, as reflected in sections III and IV of the present report. The

latest round of the Forum took place for the first time in Gibraltar on 26 March 2007. The participants reviewed the implementation of the agreements reached in Cordoba, and expressed satisfaction at the high degree of progress to date. In a communiqué issued at the end of the meeting, the participants reaffirmed their commitment to the Forum and agreed to meet again to advance work of pending issues in the near future.[16]

F. United Kingdom-Gibraltarian discussions

65. The Government of the United Kingdom has reiterated on several occasions that it remains committed to considering proposals for constitutional change in its Territories. Following the negotiations on the new Constitution for Gibraltar, the agreed text was put to the people of Gibraltar for approval in a referendum held on 30 November 2006, and was given effect by an Order-in-Council made on 14 December by the Privy Council. The draft constitution was approved and subsequently put in force on 2 January 2007. The Governments of the United Kingdom and Gibraltar recognized that the new Constitution provided for a modern and mature constitutional relationship between the two sides, which is not based on colonialism. At the same time, it was also recognized that British sovereignty of Gibraltar remains undiminished and that the United Kingdom retains its full international responsibility for Gibraltar's external relations and defence, as the Member State responsible for Gibraltar in the European Union.

[16] www.panorama.gi, 27 March 2007.